

CHAPTER 33  
IOWA VOCATIONAL REHABILITATION SERVICES

[Prior to 9/7/88, see Public Instruction Department[670] Ch 35]

[Prior to 8/23/23, see Education Department[281] Ch 56]

**877—33.1(259) Nature and responsibility of division.** The division of vocational rehabilitation services is established in the department of workforce development and is responsible for providing services to potentially eligible and eligible individuals with disabilities leading to competitive integrated employment in accordance with Iowa Code chapter 84G as transferred by 2023 Iowa Acts, Senate File 514, section 2247, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.2(259) Nondiscrimination.** The division shall not discriminate on the basis of age, race, creed, color, gender, sexual orientation, gender identity, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.

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**877—33.3(259) Definitions.** For the purpose of this chapter, the indicated terms are defined as follows:

“*Act*” means the federal Rehabilitation Act of 1973 as amended and codified at 29 U.S.C. Section 701, et seq.

“*Aggregate data*” means information about one or more aspects of division job candidates, or from some specific subgroup of division job candidates, but from which personally identifiable information on any individual cannot be discerned.

“*Applicant*” means an individual or the individual's representative, as appropriate, who has completed the IVRS Application for Services (R-412), a common intake application form through a one-stop center requesting IVRS services, or has otherwise requested services from IVRS; has provided to IVRS information necessary to initiate an assessment to determine eligibility and priority for services; is available to complete the assessment process; and has reviewed and signed the Rights and Responsibilities (IPE-1).

“*Appropriate modes of communication*” means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated.

“*Assessment for determining eligibility or in the development of an IPE*” means a review of existing data and, to the extent necessary, the provision of appropriate assessment activities to obtain additional information to make a determination and to assign the priority for services or development of an IPE.

“*Assistive technology device*” means the same as defined in Section 3 of the Assistive Technology Act of 1998, as amended.

“*Assistive technology service*” means the same as defined in Section 3 of the Assistive Technology Act of 1998, as amended.

“*Benefits planning*” means assistance provided to an individual who is interested in becoming employed, but is uncertain of the impact work income may have on any disability benefits and entitlements being received, and is or is not aware of benefits, such as access to health care, that might be available to support employment efforts.

“*Case record*” means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

“*Community rehabilitation program*” or “*CRP*” means an approved program (agency, organization, or institution, or unit of any one of these, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions) that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

1. Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
2. Testing, fitting, or training in the use of prosthetic and orthotic devices.
3. Recreational therapy.
4. Speech, language and hearing therapy.
5. Psychiatric, psychological, and social services, including positive behavior management.
6. Assessment for determining eligibility and vocational rehabilitation needs.
7. Rehabilitation technology.
8. Job development, placement, and retention services.
9. Evaluation or control of specific disabilities.
10. Orientation and mobility services for individuals who are blind.
11. Extended employment.
12. Psychosocial rehabilitation services.
13. Supported employment services and extended services.
14. Customized employment.
15. Services to family members if necessary to enable the applicant to achieve an employment outcome.
16. Personal assistance services.
17. Other similar services.

*“Comparable services and benefits”* means services and benefits including accommodations and auxiliary aids and services that are provided or paid for in whole or in part by other federal, state, or local public agencies, by health insurance or by employee benefits; are available to the individual at the time needed to ensure the individual’s progress toward achieving an employment outcome in accordance with the individual’s IPE; and are commensurate to the services that the individual would otherwise receive from the division. For purposes of this definition, comparable benefits do not include educational awards and scholarships based on merit.

*“Competitive integrated employment”* means work in the competitive labor market that:

1. Is performed on a full-time or part-time basis, including self-employment, in an integrated setting and for which the job candidate is compensated at a rate that:
  - Shall not be less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 or the rate specified in the applicable state or local minimum wage law;
  - Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills;
  - Is eligible for the level of benefits provided to other employees; and
  - A self-employed individual with a disability in the start-up phase of a business venture who is making less than the applicable minimum wage can meet the definition of “competitive integrated employment.”
2. Is at a location where the employee interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and
3. As appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities who have similar positions.

*“Competitive integrated work setting,”* with respect to the provision of services, means a setting, typically found in the community, in which applicants or eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, and said interaction is consistent with the quality of interaction that would normally occur in the performance of work by the nondisabled coworkers.

*“Customized employment”* means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability; is designed to meet the specific abilities of the individual with a disability and the business needs of the employer; and is carried out through flexible strategies.

*“Department”* means the department of workforce development.

*“Designated representative”* means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the designated representative.

*“Designated state unit”* or *“DSU”* means Iowa vocational rehabilitation services.

*“Division”* or *“IVRS”* means Iowa vocational rehabilitation services.

*“Eligible individual”* means an applicant for services from the division who meets the eligibility requirements.

*“Employment outcome”* means, with respect to an individual, entering, advancing in, or retraining full-time or, if appropriate, part-time competitive integrated employment; supported employment; or any other type of employment, including customized employment, self-employment, telecommuting, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

*“Extended employment”* means work in a nonintegrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

*“Extended services”* means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are:

1. Provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;
2. Organized or made available singly or in combination with other services to assist an eligible individual in maintaining supported employment;
3. Based on a determination of the needs of an eligible individual, as specified in the individual’s IPE;
4. Provided by an appropriate source after an individual has made the transition from support provided by the DSU; and
5. Provided to a youth with a most significant disability by the DSU for a period not to exceed four years, or at such a time that a youth reaches age 25 and no longer meets the definition of a youth with a disability, whichever occurs first. The DSU may not provide extended services to an individual with a most significant disability who is not a youth with a most significant disability.

*“Family income,”* for purposes of calculating the financial participation rate for services, means those who are financially responsible for the support of the job candidate and may involve individuals who live in the same or separate households including partners and spouses.

*“Family member,”* for purposes of vocational rehabilitation services, means any individual who lives with the individual with a disability and has a vested interest in the welfare of that individual whether by marriage, birth, or choice. A family member is an individual who either (1) is a relative or guardian of an applicant or job candidate, or (2) lives in the same household as an applicant or job candidate, who has a substantial interest in the well-being of the applicant or job candidate, and whose receipt of vocational rehabilitation services is necessary to enable the applicant or job candidate to achieve an employment outcome.

*“IDEA”* means the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

*“Impartial hearing officer”* or *“IHO”* means an individual who:

1. Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);
2. Is not a member of the state rehabilitation council for the designated state unit;

3. Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;

4. Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the unified or combined state plan, and the federal and state regulations governing the provision of services;

5. Has received training with respect to the performance of official duties; and

6. Has no personal, professional, or financial interest that could affect the objectivity of the individual.

An individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

*“Independent living services”* or *“IL services”* means services authorized under Title VII, chapter 1, part B of the Rehabilitation Act of 1973, as amended.

*“Individualized plan for employment”* or *“IPE”* means a plan that specifies the services needed by an eligible individual and the responsibilities of the individual with a disability and other payers. An IPE includes specifics regarding the services needed to lead toward competitive integrated employment, including the following provisions:

1. Includes a description of the specific employment outcome that is chosen by the eligible individual and is consistent with the individual’s unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choices consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be of the individual’s projected postschool employment outcome);

2. Includes a description of the specific rehabilitation services needed to achieve the employment outcome and for a student or youth with a disability, the specific transition services and supports needed to achieve the individual’s employment outcome or projected postschool employment outcome;

3. Provides for services in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;

4. Includes timelines for the achievement of the employment outcome and initiation of services;

5. Includes a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual’s representative that will provide the vocational rehabilitation services and the methods used to procure those services;

6. Includes a description of the criteria that will be used to evaluate the progress toward achievement of the employment outcome; and

7. Includes the terms and conditions for the IPE, including, as appropriate, information describing the responsibilities of the DSU; the responsibilities of the eligible individual in relation to achieving the employment outcome and extent of financial participation (if applicable) as outlined in subrule 56.6(5), as well as the responsibility of the individual to apply for and secure comparable benefits and services; and the responsibilities of other entities as the result of arrangements made pursuant to the comparable benefits and services requirements.

*“Individual with a disability”* means an individual who has a physical or mental impairment, whose impairment constitutes a substantial impediment to employment, and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

*“Individual with a most significant disability”* means an individual who is seriously limited in three 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.

*“Individual with a significant disability”* means an individual 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 or who is a recipient of SSDI, SSI, or both due to the individual’s disability.

*“Institution of higher education”* or *“IHE”* means the same as defined in Section 102(a) of the Higher Education Act of 1965.

*“Job candidate”* means an applicant or eligible individual applying for or receiving benefits or services from any part of the division and shall include former job candidates of the division whose files or records are retained by the division.

*“Job retention waiting list release”* means the mechanism used to remove a job candidate from the division waiting list when the individual is at immediate risk of losing the job and requires vocational rehabilitation service(s) or good(s) in order to maintain employment. This applies only for those service(s) or good(s) that will allow the individual to maintain employment. After the individual receives said service(s) or good(s), the individual’s file will be closed if the individual is satisfied with the services provided and requires no further services. If there are additional services needed, the individual will return to the waiting list, if necessary, until that point where the individual’s priority of service is being served.

*“Maintenance”* means monetary support provided to a job candidate for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the job candidate and that are necessitated by the job candidate’s participation in an assessment for determining eligibility and vocational rehabilitation needs or the job candidate’s receipt of vocational rehabilitation services under an IPE.

*“Mediation”* means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

*“Menu of services”* means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. Menu of services refers to various services that the division is able to purchase from an approved CRP or other approved provider on behalf of a job candidate. The services are selected and jointly agreed upon by the counselor and job candidate of the division. Payments for services are made based on a fee structure that is published and updated annually, and there is no financial needs assessment applied toward the costs of these purchased services from the community partner.

*“Ongoing support services”* means services that are written in the IPE; are needed to support and maintain individuals with the most significant disabilities in supported employment; are provided by the division from the time of job placement until transition to extended services, unless postemployment services are provided following transition, and thereafter by one or more extended services providers throughout the individual’s term of employment in a particular job placement; are provided, at a minimum, twice monthly to make an assessment regarding the employment situation at the work site and coordinate provision of specific intensive services needed to maintain stability; are provided by skilled job trainers who accompany the individual for intensive job skill training at the work site; include social skills training, assessment and evaluation of progress, job development and retention, placement services, and follow-up services with the business and the individual’s representatives; and facilitate development of natural supports or any other service(s) needed to maintain employment.

*“Personal assistance services”* means a range of services provided by one or more persons, including, among other things, training in managing, supervising, and directing personal assistance services, that are designed to assist an individual with a disability to perform, on or off the job, daily living activities that the individual would typically perform without assistance if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job, necessary to the achievement of an employment outcome, and provided only while the individual is receiving other vocational rehabilitation services.

*“Physical or mental impairment”* includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine; or
2. Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

*“Physical or mental restoration services”* means:

1. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

2. Diagnosis and treatment of a physical, mental or cognitive disorder by qualified personnel in accordance with state licensure laws to include:

- Dentistry;
- Nursing services;
- Necessary hospitalization (either inpatient or outpatient) in connection with surgery or treatment and clinical services;
- Drugs and supplies;
- Prosthetic and orthotic devices;
- Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescope lenses, and other special visual aids prescribed by personnel who are qualified in accordance with state licensure laws;
- Podiatry;
- Physical therapy;
- Occupational therapy;
- Speech or hearing therapy;
- Mental health services;
- Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical or mental restoration services, or that are inherent in the condition under treatment;
- Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and
- Other medical or medically related rehabilitation services.

*“Plan for natural supports”* means a plan initiated prior to the implementation of the supported employment program that describes the natural supports to be used on the job; the training provided to the supervisor and mentor on the job site; the technology used in the performance of the work; the rehabilitation strategies and trainings that will be taught to the mentor in order to support and direct the job candidate on the job; the supports needed outside of work for the job candidate to be successful; and the methods by which the employer can connect with the job candidate’s job coach/IVRS staff member, or the training program when the need arises.

*“Postemployment services”* means one or more services that are intended to ensure that the employment outcome remains consistent with the individual’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet the rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, are limited in scope and duration.

*“Potentially eligible”* for the purposes of preemployment transition services means all students with disabilities. A student is considered potentially eligible until the student has applied for services and an eligibility decision has been determined.

*“Preemployment transition services”* or *“pre-ETS”* means those services specified in 34 CFR Section 361.48(a).

*“Recognized educational program”* includes secondary education programs, nontraditional or alternative secondary education programs (including homeschooling), postsecondary education programs, and other recognized educational programs such as those offered through the juvenile justice system.

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

“*Satisfactory employment*” means stable employment in a competitive integrated employment setting that is consistent with the individual’s IPE and acceptable to both the individual and the employer.

“*Self-employment services*” means services to assist individuals with disabilities to achieve a self-employment outcome consistent with the individual’s abilities, preferences and needs. Self-employment is a vocational option through the division that is available only to for-profit businesses intended for operation within the state of Iowa. The division provides two options within the program, which include the full self-employment program and micro-enterprise development. These services provide information, strategies and resources to help the business become self-sustaining while assisting the individual in assuring all necessary supports are in place for long-term success.

“*Status*” means the existing condition or position of a case. The specific case statuses are as follows:

1. 00-0 Referral for services.
2. 01-0 Potentially eligible student.
3. 01-1 Closed from potentially eligible.
4. 02-0 Applicant.
5. 04-0 Waiting list.
6. 08-0 Closed before acceptance (from Status 02-0).
7. 10-0 Accepted for services (plan development) adults.
8. 10-1 Accepted for services (plan development) high school students.
9. 14-0 Counseling and guidance.
10. 16-0 Physical and mental restoration.
11. 18-\_\_ Training.
  - 18-1 Work adjustment training/assessment.
  - 18-2 On-the-job training.
  - 18-3 Vocational-technical training.
  - 18-4 Academic training.
  - 18-5 Secondary education.
  - 18-6 Supported employment.
  - 18-7 Other types of training (including nonsupported employment job coaching, job development, ISE).
12. 20-0 Ready for employment.
13. 22-0 Employed.
14. 24-0 Services interrupted.
15. 26-0 Closed rehabilitated.
16. 28-0 Closed after IPE initiated (from Status 14-0 through 24-0).
17. 30-0 Closed before IPE initiated (from Status 10-\_\_).
18. 32-0 Postemployment services (from Status 26-0).
19. 33-\_\_ Closed after postemployment services (from Status 32-0).
  - 33-1 Individual is returned to suitable employment or the employment situation is stabilized.
  - 33-2 The case has been reopened for comprehensive vocational rehabilitation services.
  - 33-3 The postemployment services are no longer assisting the individual and further services would be of no assistance.
20. 38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories, and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual’s name is at the top of the waiting list).

“*Student with a disability*” means an individual with a disability in a secondary, postsecondary, or other recognized education program who is not younger than 14 years of age and not older than 21 years of age; and is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act or is a student who is an individual with a disability, for purposes of Section 504.

“*Substantial impediment to employment*” means a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors)

that hinders an individual from preparing for, entering into, engaging in, or retaining competitive integrated employment consistent with the individual's abilities and capacities.

*"Supported employment"* means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability is working on a short-term basis toward competitive integrated employment. Such employment is individualized consistent with the strengths, abilities, interests, and informed choice of the individual who is receiving ongoing support services for individuals with the most significant disabilities for whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and who, because of the nature and severity of the individual's disabilities, needs intensive supported employment services and extended services after the transition from support provided by the division in order to perform this work.

*"Supported employment services"* means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that are organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment; based on a determination of the needs of an eligible individual, as specified in an IPE; provided by IVRS for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and following transition, as postemployment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

*"Transition services"* means a coordinated set of activities provided to a student or youth with a disability and designed within an outcome-oriented process that promotes movement from school to postschool activities. Postschool activities include postsecondary education, vocational training, competitive integrated employment including supported employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities must be based upon the individual student's or youth's needs, taking into account the student's or youth's preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's or youth's IPE. Transition services must also include outreach to and engagement of the parents or other representatives, as appropriate.

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

*"Vocational rehabilitation services"* means those services identified under 34 CFR Section 361.48. For the benefit of groups of individuals, "vocational rehabilitation services" means those services listed in 34 CFR Section 361.49.

*"Waiting list"* means the listings of eligible individuals for vocational rehabilitation services who are not in a category being served, otherwise known as "order of selection" under the Workforce Innovation and Opportunity Act of 2014.

*"Youth with a disability"* means an individual with a disability who is not younger than 14 years of age and not older than 24 years of age.

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## **877—33.4(259) Referral and application for services.**

### **33.4(1) General.**

a. The division has established and implemented standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under Section 121 of the Workforce Innovation and Opportunity Act. The standards include timelines for making good faith efforts to inform these



individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

*b.* A referral for a student with a disability requesting preemployment transition services (pre-ETS) includes completion of the pre-ETS agreement.

*c.* Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act, an eligibility determination must be made within 60 days, unless exceptional and unforeseen circumstances beyond the control of the division preclude making an eligibility determination within 60 days and the division and the individual agree to a specific extension of time.

*d.* An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate, has completed an agency application form including written consent; has completed a common intake application form in a one-stop center requesting vocational rehabilitation services or has otherwise requested services from the division; has provided to the division information necessary to initiate an assessment to determine eligibility and priority for services; and is available to complete the assessment process. The division ensures that its application forms are widely available throughout the state, particularly in the one-stop centers under Section 121 of the Workforce Innovation and Opportunity Act.

*e.* The division will refer applicants or eligible individuals to appropriate programs and service providers best suited to address the specific rehabilitation, independent living and employment needs of the individual with a disability. Individuals with the most significant disabilities who are working at subminimum wage in a nonintegrated setting are provided information about competitive integrated employment and support from the division, once known to the division, by qualified personnel and partners with the goal of assisting said individuals to pursue competitive integrated employment.

*f.* The division will inform those who decide against pursuit of employment that services may be requested at a later date if, at that time, they choose to pursue an employment outcome.

**33.4(2) *Individuals who are blind.*** Pursuant to rule 111—10.4(216B), individuals who meet the department for the blind (IDB) definition of “blind” are to be served primarily by IDB. Joint cases are served pursuant to any applicable memorandum of agreement executed between the division and IDB. [ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

### **877—33.5(259) Eligibility for vocational rehabilitation services.**

#### **33.5(1) *General.***

*a.* Eligibility for vocational rehabilitation services shall be determined upon the basis of the following:

- (1) A determination by a qualified rehabilitation counselor that the applicant has a physical or mental impairment documented by a qualified provider;
- (2) A determination by a qualified rehabilitation counselor that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant; and
- (3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

*b.* For purposes of an assessment for determining eligibility and vocational rehabilitation needs, an individual is presumed to have a goal of an employment outcome. The applicant's completion of the application process for vocational rehabilitation services is sufficient evidence of the individual's intent to achieve an employment outcome. If at any time the individual decides to no longer pursue competitive integrated employment, the individual is no longer eligible for division services.

**33.5(2) *Presumptions.*** A presumption exists that the applicant who meets the eligibility requirements in subparagraphs 56.5(1) “a”(1) and 56.5(1) “a”(2) can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. Any applicant who has been determined eligible for social security benefits under Title II or Title XVI of the Social Security Act

based on the applicant's own disability is presumed eligible for vocational rehabilitation services and is considered an individual with a significant disability. IVRS staff must verify the applicant's eligibility. Recipients who demonstrate eligibility under subrule 56.6(1) must also demonstrate need in the individualized plan for employment (IPE) under subrule 56.6(3). Nothing in this rule automatically entitles a recipient of social security disability insurance or supplemental security income payments to any good or service provided by the division. Qualified IVRS personnel will identify and document the individual as a recipient of social security benefits based on disability, and the determination of impediments to employment and need for services will be documented by the qualified rehabilitation counselor.

**33.5(3) Standards for ineligibility.** If the division determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an IPE is no longer eligible for services, including preemployment transition services (pre-ETS), the division must:

- a. Make the determination only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;
- b. Inform the individual in writing, supplemented as necessary with appropriate modes of communication, consistent with the informed choice of the individual, of the ineligibility determination, the requirements in this rule, and the means by which the individual may seek remedy for any dissatisfaction, including the procedures for review of IVRS determinations;
- c. Provide to the individual the individual's appeal or mediation rights;
- d. Provide the individual information on the client assistance program (CAP);
- e. Refer the individual to other programs that are part of the one-stop service delivery system under the Workforce Innovation and Opportunity Act (WIOA) that can address the individual's training- or employment-related needs or to federal, state, or local programs or service programs or service providers, including, as appropriate, independent living programs and extended employment providers, best suited to meet the individual's rehabilitation needs if the ineligibility determination is based on a finding that the individual has chosen not to pursue services, or if the individual has decided to pursue subminimum wage employment; and
- f. At the request of the individual or representative, as applicable, a review of the decision within 12 months of the date of that decision.

**33.5(4) Residency.** There is no duration of residency requirement; however, an individual seeking services from the agency must be present and available for participation in services.  
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## **877—33.6(259) Other eligibility and service determinations.**

### **33.6(1) Waiting list.**

a. As required by the Act and 34 CFR Section 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

- (1) Most significantly disabled;
- (2) Significantly disabled; and
- (3) Others eligible.

b. An individual's order of selection is determined by the waiting list and the date on which the individual applied for services from IVRS. All waiting lists are statewide in scope; no regional lists are to be maintained. Assessment of the significance of an applicant's disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list. Individuals who do not meet the order of selection criteria will have access to services provided through information and referral. The division will provide the individual:

- (1) A notice of the referral;
- (2) Information identifying a specific point of contact at the agency to which the individual is referred; and

(3) Information and advice on the referral regarding the most suitable services to assist the individual.

c. Job retention services are available for those individuals who meet the requirements for those services.

**33.6(2) Options for individualized plan for employment (IPE) development.**

a. The division provides information on the available options for developing the IPE, including the option that an eligible individual, or as appropriate, the individual's representative, may develop all or part of the IPE without assistance from the division or other entity; or with assistance from:

- (1) A qualified vocational rehabilitation counselor employed by IVRS;
- (2) A qualified vocational rehabilitation counselor not employed by IVRS;
- (3) A disability advocacy organization, such as the CAP or Disability Rights Iowa (DRI), or any other advocacy organization of the individual's choosing; or
- (4) Resources other than those mentioned above, such as the individual's case manager or a representative of the division under the guidance of a division vocational rehabilitation counselor.

b. The IPE is not approved or put into practice until it is discussed and reviewed; amended, if applicable; and approved by the job candidate and the vocational rehabilitation counselor employed by the division.

c. There is no compensation for any expenses incurred while the IPE is developed with any entity not employed by the division.

d. If the job candidate is not on the division waiting list and requires some assessment services to develop the IPE, the job candidate must discuss the needs in advance with the division counselor and obtain prior approval if financial assistance is needed from the division to pay for the assessment service.

e. For individuals entitled to benefits under Title II or XVI of the Social Security Act on the basis of a disability or blindness, the division must provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning.

f. The job candidate's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the job candidate.

g. The IPE implementation date begins on the date of the division counselor's signature.

**33.6(3) Content of the individualized plan for employment (IPE).** Each IPE must include:

a. A description of the specific employment outcome, as defined in 34 CFR Section 361.5(c)(15), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be a description of the individual's projected postschool employment outcome);

b. The specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services;

c. In the case of a plan for an eligible individual who is a student or youth with a disability, the specific transition services and supports needed to achieve the individual's employment outcome or projected postschool employment outcome;

d. The provision of services in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;

e. Timelines for the services on the IPE and for the achievement of the employment outcome;

f. A description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services (the division does not supplant services for which another entity is responsible);

g. A description of the criteria that will be used to evaluate progress toward achievement of the employment outcome;

h. The terms and conditions of the IPE, including, as appropriate, information describing: the responsibilities of the division; the responsibilities of the eligible individual, including the

responsibilities the individual will assume in relation to achieving the employment outcome; if applicable, the extent of the individual's participation in paying for the cost of services; and the responsibility of the individual with regard to applying for and securing comparable services and benefits as described in 34 CFR Section 361.53; and the responsibilities of other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 34 CFR Section 361.53; and

*i.* For postemployment services, as applicable, the expected need for postemployment services prior to closing the record of services of an individual who has achieved an employment outcome; a description of the terms and conditions for the provision of any postemployment services; and, if appropriate, a statement of how postemployment services will be provided or arranged through other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 34 CFR Section 361.53.

*j.* For an IPE for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate:

- (1) The supported employment services to be provided by the division;
- (2) The expected extended services needed, which may include natural supports;
- (3) The source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a description of the basis for concluding that there is a reasonable expectation that those sources will become available;
- (4) Periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the individualized plan for employment by the time of transition to extended services;
- (5) The coordination of services provided under an IPE with services provided under other individualized plans established under other federal or state programs;
- (6) To the extent that job skills training is provided, identification that the training will be provided on site; and
- (7) Placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.

*k.* In the development of an IPE for a student with a disability, the division coordinates with the individualized education program (IEP) or 504 services, as applicable, for that individual in terms of the goals, objectives, and services identified in the IEP.

No expenditures associated with the job candidate-developed plan are the responsibility of IVRS, unless agreed to and approved by the IVRS counselor. Written approval for services must be obtained prior to any IVRS financial obligation.

All IPE services are provided, unless amended and determined unnecessary. The division exercises its discretion in relation to the termination or amendment of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed.

**33.6(4)** *Scope of services.*

*a.* Preemployment transition services (pre-ETS). In collaboration with the local educational agencies involved, the division ensures that pre-ETS are arranged and available to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services, as defined in 34 CFR Section 361.5(c)(51). Pre-ETS include:

- (1) Required activities. The division must provide the following required activities:
  1. Job exploration counseling;
  2. Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;
  3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
  4. Workplace readiness training to develop social skills and independent living; and

5. Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

(2) Authorized activities. Funds available and remaining after the provision of the required activities may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by:

1. Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

2. Developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently; participate in postsecondary education experiences; and obtain, advance in and retain competitive integrated employment;

3. Providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

4. Disseminating information about innovative, effective, and efficient approaches to achieve the goals of this rule;

5. Coordinating activities with transition services provided by local educational agencies under the IDEA;

6. Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel in order to better achieve the goals of this rule;

7. Developing model transition demonstration projects;

8. Establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disability agencies, private businesses, or other participants to achieve the goals of this rule; and

9. Disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

(3) Preemployment transition coordination. Each local office of a designated state unit must carry out responsibilities consisting of:

1. Attending individualized education program meetings for students with disabilities, when invited;

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

3. Working with schools, including those carrying out activities under Section 614(d) of the IDEA, to coordinate and ensure the provision of preemployment transition services under this rule;

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

(4) Completion of the pre-ETS agreement outlines the agreed-upon preemployment transition services needed by the student with a disability. When it is necessary to purchase these services, written prior approval must be obtained from the division.

Once an individual applies for services, the division may provide certain services (e.g., assessments for the determination of eligibility and plan development). The preemployment transition services listed above may continue for students with disabilities (as applicable).

*b.* Vocational services for eligible individuals not on a waiting list are services described in an IPE and are necessary to assist the eligible individual in preparing for, obtaining, retaining, regaining, or advancing in employment if the failure to advance is due to the disability, consistent with informed choice. Funding for such services is provided in accordance with the division policies. The services include:

(1) Assessment for determining services needed to achieve competitive integrated employment;

(2) Counseling and guidance, which means career counseling to provide information and support services to assist the eligible individual in making informed choices;

(3) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce

development system, and through agreements with other organizations and agencies as well as advising individuals about the client assistance program;

(4) Job-related services to facilitate the preparation for, obtaining of, and retaining of employment to include job search, job development, job placement assistance, job retention services, follow-up services and follow-along if necessary and required under the IPE;

(5) Vocational and other training services, including personal and vocational adjustment training; advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business; books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with IVRS funds unless maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training, in accordance with the definition of that term in 34 CFR Section 361.48(b)(6);

(6) Physical and mental treatment may be provided to the extent that financial support is not readily available from another source other than IVRS, such as health insurance of the individual or a comparable service or benefit, as defined in 34 CFR Section 361.5(c)(39), and said treatment is essential to the progression of the individual to achieve the competitive integrated employment outcome according to the following provisions:

1. The service is necessary for the job candidate's satisfactory occupational adjustment;
2. The condition causing the disability is relatively stable or slowly progressive;
3. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time;
4. The prognosis for life and employability is favorable;

(7) Maintenance services as defined in 34 CFR Section 361.5(c)(34), to the extent that the costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the job candidate or the job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's policy manual;

(8) Transportation in connection with the provision of any vocational rehabilitation service and as defined in 34 CFR Section 361.5(c)(57), to the extent that when necessary to enable an applicant or a job candidate to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency;

(9) Vocational rehabilitation services to family members, as defined in 34 CFR Section 361.5(c)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome;

(10) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services;

(11) Supported employment services as defined in 34 CFR Section 361.5(c)(42);

(12) Occupational licenses, tools, equipment, initial stocks and supplies;

(13) Rehabilitation technology as defined in 34 CFR Section 361.5(c)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices;

(14) Transition services for a student or youth with a disability that facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in competitive integrated employment, or preemployment transition services for students;

(15) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce development system, to eligible individuals who are pursuing

self-employment or telecommuting or establishing a small business operation as an employment outcome;

(16) Customized employment as defined in 34 CFR Section 361.5(c)(11); and

(17) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

**33.6(5) *Specific services requiring financial assessment.***

a. Financial need must be established prior to the provision of certain services at the division's expense and is evidenced by use of the financial inventory needs tool utilized by the division. No financial needs test will occur for the following services:

(1) Assessment for eligibility and priority of services and determining vocational rehabilitation needs under 34 CFR Section 361.48(b)(2);

(2) Vocational rehabilitation counseling and guidance under 34 CFR Section 361.48(b)(3);

(3) Referral and other services under 34 CFR Section 361.48(b)(4);

(4) Job-related services under 34 CFR Section 361.48(b)(12);

(5) Personal assistance services under 34 CFR Section 361.48(b)(14); and

(6) Any auxiliary aid or service (e.g., interpreter services under 34 CFR Section 361.48(b)(10) or reader services under 34 CFR Section 361.48(b)(11)) that an individual with a disability requires.

b. Recipients of SSDI/SSI and foster care youth are not subject to a financial needs test but must demonstrate eligibility under subrule 56.6(1) and rule 281—56.5(259), as well as demonstrate need in the IPE.

(1) For the determination of financial need, the individual and the individual's family (when applicable) are required to provide information regarding all family income from any source that may be applied toward the cost of rehabilitation services, other than those services mentioned above, where the financial needs test does not apply. Family is considered to be any individuals who are financially responsible for the support of the job candidate, regardless of whether they reside in the same or separate households. A comparable services and benefits search is required for some services. The division shall not pay for more than the balance of the cost of services minus comparable services and benefits for the individual's documented contribution. When an individual refuses to supply information for the financial needs test, the individual assumes 100 percent responsibility for the costs of the rehabilitation.

(2) The division shall observe the following policies in deciding financial need based upon the findings:

1. All services requiring the determination of financial need are provided on the basis of supplementing the resources of the individual or of those responsible for the individual.

2. A division supervisor may grant an exception in cases where the individual's disability caused, or is directly related to, financial need and where all other sources of money have been exhausted by the individual and the guardian of the individual (when applicable).

3. Consideration shall be given to the individual's responsibility for the immediate needs and maintenance of the individual's dependents, and the individual shall be expected to reserve sufficient funds to meet the individual's family obligations and to provide for the family's future care, education and medical expenses.

4. Income up to a reasonable amount should be considered and determined based on the federal poverty guidelines associated with family size, income, and exclusions.

5. General assistance from state or federal sources is disregarded as a resource unless the assistance is a grant award for postsecondary training.

6. Grants and scholarships based on merit, while not required to be searched for as a comparable benefit, may be considered as part of the determination of financial support of a plan when a request is beyond the basic support for college. Public grants and institutional grants or scholarships not based on merit are considered a considerable benefit.

7. The division does not fund services for which another entity is responsible.

8. The division seeks and purchases the most economical goods (items/models) or services that meet the individual's vocational needs.

9. Goods and services are only authorized to those facilities and entities qualified and equipped to provide such goods and services.

**33.6(6)** *Maximum rates of payment to training facilities.* In no case shall the amount paid to a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid to the facility shall not exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

**33.6(7)** *Areas in which exceptions shall not be granted.* Pursuant to federal law, an exception shall not be granted for any requirements that do not allow for such an exception (e.g., eligibility, required contents of the individualized plan for employment).

**33.6(8)** *Exceptions to duration of services.* As required by the Act and 34 CFR Section 361.50(d), the division shall have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the IPE, a job candidate must follow through on the agreed-upon IPE and related activities and keep the division informed of the job candidate's progress. [ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.7(259) Purchasing principles for individual-specific purposes.**

**33.7(1)** The division shall follow the administrative rules for purchasing goods and services promulgated by the department of administrative services.

**33.7(2)** The division shall purchase only those items or models that allow for a job candidate to meet the job candidate's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a job candidate's vocational objective or that serve primarily to enhance the job candidate's personal life.

**33.7(3)** The division shall seek out and purchase the most economical item or model that meets the job candidate's vocational needs.

**33.7(4)** The division shall encourage all job candidates to develop strategies and savings programs to pay for replacement items/models or upgrades.

**33.7(5)** Items purchased for a job candidate become the property of the job candidate but may be repossessed by the division, subject to reimbursement to the job candidate for the job candidate's share of the purchase price, if the job candidate does not attain employment prior to case closure.

**33.7(6)** The division shall inform the job candidate that any change to planned purchases must be discussed and approved jointly before a purchase is made.

**33.7(7)** The division will not participate in the modification to property not owned by the job candidate or the job candidate's family without a division-approved exception to policy.

**33.7(8)** When considering what item or model to purchase for a specific job candidate, the division shall in all cases consider the following factors:

*a.* Whether the item or model is required for the job candidate to be able to perform the essential functions of the job candidate's job.

*b.* Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.8(259) Review, mediation and appeal processes.** At all times throughout the rehabilitation process, individuals accessing any IVRS services shall be informed of the right to appeal or mediation and the procedures by which to file. If an individual is dissatisfied with any agency decision that directly affects the individual, the individual or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the individual or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process or mediation is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal or request for mediation a written letter, facsimile, or electronic mail that indicates that the applicant or job candidate desires to appeal or seek mediation. An



appeal or mediation request must be filed within 90 days of notification of the disputed decision. Once the appeal form or request for mediation has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) or mediator within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension or one of the parties declines mediation. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP) at any time in the appeal process.

**33.8(1) Supervisor review.** As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

*a.* Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case or issue; and, if necessary, meet with any or all parties to discuss the dispute.

*b.* The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

*c.* If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal.

*d.* As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision or review by the chief of the rehabilitation services bureau.

**33.8(2) Mediation.** Regardless of whether a supervisor review is requested, an appellant may request resolution of the dispute through the mediation process. Mediation is also available if the appellant is dissatisfied with the supervisor's decision. If mediation is requested by the appellant and agreed to by the division, the mediation shall be held within 60 days of the request for mediation. The following steps shall be observed by the parties. Mediation shall be conducted by a qualified and impartial mediator, as defined in 34 CFR Section 361.5(c)(43), trained in effective mediation techniques and selected randomly by the division from a list maintained by the division.

*a.* The mediation shall be conducted in a timely manner at a location convenient to the parties.

*b.* Mediation shall not be used to delay the appellant's right to a hearing.

*c.* Mediation must be voluntary on the part of the appellant and the division.

*d.* Mediation is at no cost to the appellant.

*e.* All discussions and other communications that occur during the mediation process are confidential. Any offers of settlement made by either party during the mediation process are inadmissible if further appeal is sought by the appellant.

*f.* Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the mediator, unless so requested by the appellant.

**33.8(3) Hearing before an impartial hearing officer.** Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

*a.* The division shall appoint the IHO from the pool of impartial hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

*b.* The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the

hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

*c.* The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

*d.* Within five working days after appointment, the IHO shall notify both parties in writing of the following:

- (1) The role of the IHO;
- (2) The IHO's understanding of the reasons for the appeal and the requested resolution;
- (3) The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;
- (4) The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same;
- (5) That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;
- (6) That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;
- (7) The availability to the appellant of the Iowa client assistance program (ICAP) for possible assistance;
- (8) Information about the amount of time it will take to complete the hearing process;
- (9) The possibility of reimbursement of necessary travel and related expenses; and
- (10) The availability of interpreter and reader services for appellants not proficient in the English language and those who are deaf or hard of hearing and the availability of transportation or attendant services for those appellants requiring such assistance.

*e.* Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending the decision of the IHO, unless so requested by the appellant.

*f.* The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. The appellant or the division may request administrative review, and the IHO decision is submitted to the administrator of the division. Both parties may provide additional evidence not heard at the hearing for consideration for the administrative review. If no additional evidence is presented, the IHO decision stands. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought after administrative review, the IHO's decision shall be implemented pending the outcome of the judicial review.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.9(259) Case record.** The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. Under this authority, the division maintains a record for each case. The case record contains pertinent case information as defined in division policy including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case, together with a justification of the closure and supporting documents. Case information is contained in the agency's case management system and a hard copy file. A combination of these data collections instruments constitutes the official case record. The hard copy files are retained for a minimum of four years, but there are instances when a case may be stored longer based on the services received.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.10(259) Personally identifiable information.** This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the division by personal identifier in record systems as defined herein. The record systems maintained by the division include the following:

**33.10(1) Personnel records.** Personnel records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of

allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances.

**33.10(2) *Job candidate case records.*** An individual file is maintained for each person who has been referred to or has applied for the services of the division, as described in rule 281—56.9(259). The file contains a variety of personal information about the job candidate, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

**33.10(3) *Job candidate service record computer database.*** The job candidate service record computer database contains personal data items about individual job candidates. Data identifying a job candidate is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

**33.10(4) *Vendor purchase records.*** Vendor purchase records are records of purchases of goods or services made for the benefit of job candidates. If a record contains the job candidate's name or other personal identifiers, the record is confidential. Lists of non-job candidate vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

**33.10(5) *Records and transcripts of hearings or client appeals.*** Records and transcripts of hearings or client appeals contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code section 17A.3(1)“d.” Information is available after confidential personally identifiable information is deleted.

**33.10(6) *All computer databases of client and applicant names and other identifiers.*** The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

**33.10(7) *All computer-generated reports that contain personally identifiable information.*** The division may choose to draw or generate from a data processing system reports that contain information or an identifier which would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

**33.10(8) *Personally identifiable information and acceptance of federal requirements.*** Pursuant to Iowa Code section 259.9, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. All personally identifiable information is confidential and may be released only with informed written consent, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.11(259) Other groups of records routinely available for public inspection.** This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

**33.11(1) *Rule making.*** Rule-making records, including public comments on proposed rules, are not confidential.

**33.11(2) *Council and commission records.*** Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

**33.11(3) *Publications.*** News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

**33.11(4) *Statistical reports.*** Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

**33.11(5) *Grants.*** Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

**33.11(6) *Published materials.*** The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

**33.11(7) *Policy manuals.*** Manuals containing the policies and procedures for programs administered by the division are available on the division website. Printed copies of all or some of the documents are available at the cost of production and handling. Requests should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

**33.11(8) *Operating expense records.*** The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

**33.11(9) *Training records.*** Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

**33.11(10) *Other records.*** The division maintains records of various sources not previously mentioned in this rule that are exempted from disclosure by law.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

#### **877—33.12(259) State rehabilitation council.**

**33.12(1) *Composition.*** The state rehabilitation council shall be composed of at least 15 members, appointed by the governor. A majority of the council members must be individuals with disabilities who are not employed by the division. The appointing authority must select members of the council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the appointing authority must consider, to the greatest extent practicable, the extent to which minority populations are represented on the council. A majority of members must be individuals with disabilities who meet the requirements of 34 CFR Section 361.5(c)(28) and are not employed by the designated state unit. The council members shall include the following:

- a. At least one representative of the statewide independent living council, who must be the chairperson or other designee of the statewide independent living council;
- b. At least one representative of a parent training and information center established pursuant to Section 682(a) of the IDEA;
- c. At least one representative of the client assistance program established under 34 CFR Part 370, who must be the director or other individual recommended by the client assistance program;
- d. At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the council if employed by the division;
- e. At least one representative of community rehabilitation program service providers;
- f. Four representatives of business, industry, and labor;
- g. Representatives of disability groups that include a cross section of:
  - (1) Individuals with physical, cognitive, sensory, and mental disabilities; and
  - (2) Representatives of individuals with disabilities who have difficulty representing themselves or are unable, due to their disabilities, to represent themselves;
- h. Current or former applicants for, or recipients of, vocational rehabilitation services;
- i. At least one representative of the state educational agency responsible for the public education of students with disabilities who are eligible to receive services under the Act and Part B of the IDEA;
- j. At least one representative of the Iowa workforce development board; and
- k. The director of the division, who serves as an ex officio, nonvoting member of the council.

**33.12(2) Chairperson.** The chairperson must be selected by the members of the council from among the voting members of the council.

**33.12(3) Terms.** Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term and may serve one additional three-year term. The terms of service of the members initially appointed must be for a varied number of years to ensure that terms expire on a staggered basis.

**33.12(4) Vacancies.** The governor shall fill a vacancy in council membership.

**33.12(5) Functions.** The council must, after consulting with the state workforce development board, perform the following functions:

*a.* Review, analyze, and advise the designated state unit regarding the designated state unit's responsibilities, particularly responsibilities related to:

- (1) Eligibility, including order of selection;
- (2) The extent, scope, and effectiveness of services provided; and
- (3) Functions performed by state agencies that affect or potentially affect the ability of individuals with disabilities in achieving employment outcomes;

*b.* In partnership with the designated state unit:

(1) Develop, agree to, and review state goals and priorities in accordance with 34 CFR Section 361.29(c); and

(2) Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Secretary of Education in accordance with 34 CFR Section 361.29(e);

*c.* Advise the designated state agency and the designated state unit regarding activities carried out under the IVRS program and assist in the preparation of the vocational rehabilitation services portion of the unified or combined state plan and amendments to the plan, applications, reports, needs assessments, and evaluations;

*d.* To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

- (1) The functions performed by the designated state agency;
- (2) The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the Act; and
- (3) The employment outcomes achieved by eligible individuals receiving services under 34 CFR Part 361, including the availability of health and other employment benefits in connection with those employment outcomes;

*e.* Prepare and submit to the governor and to the Secretary of Education no later than 90 days after the end of the federal fiscal year an annual report on the status of vocational rehabilitation programs operated within the state and make the report available to the public through appropriate modes of communication;

*f.* To avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities of other councils within the state, including the statewide independent living council, the advisory panel established under Section 612(a)(21) of the IDEA, the state developmental disabilities planning council, the state mental health planning council, and the state workforce development board, and with the activities of entities carrying out programs under the Assistive Technology Act of 1998;

*g.* Provide for coordination and the establishment of working relationships between the designated state agency and the statewide independent living council and centers for independent living within the state; and

*h.* Perform other comparable functions, consistent with the purpose of 34 CFR Part 361, as the council determines to be appropriate, that are comparable to the other functions performed by the council.

**33.12(6) Meetings.** The council must convene at least four meetings a year. The meetings must be publicly announced, open, and accessible to the general public, including individuals with disabilities,

unless there is a valid reason for an executive session. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

**33.12(7) Forums or hearings.** The council shall conduct forums or hearings, as appropriate, that are publicly announced, open, and accessible to the public, including individuals with disabilities.

**33.12(8) Conflict of interest.** No member of the council may cast a vote on any matter that would provide direct financial benefit to the member or the member's organization or otherwise give the appearance of a conflict of interest under state law.

**33.12(9) Specific implementation clause.** This rule is intended to implement 34 CFR Sections 361.16 and 361.17.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.13(259) Iowa self-employment program: purpose.** The division of vocational rehabilitation services works in collaboration with the department for the blind to administer the Iowa self-employment (ISE) program. The purpose of the program is to provide business development funds in the form of technical assistance (up to \$10,000) and financial assistance (up to \$10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on the requirements of the business, not to exceed the technical assistance and financial assistance limits.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.14(259) Program requirements.**

**33.14(1)** Clients of the division or the department for the blind may apply for the program.

**33.14(2)** All of the following conditions are also applicable:

*a.* The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

*b.* Any equipment purchased for the applicant under this program that is no longer used by the applicant may be returned to the division, at the discretion of the division.

*c.* An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

*d.* Recommendation for and approval of financial assistance are based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

*e.* To receive financial support from the ISE program, the applicant's business plan feasibility study must result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

*f.* The division cannot support the purchase of real estate or improvements to real estate.

*g.* The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

*h.* The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

(1) A hobby or similar activity that does not produce income at the level required for self-sufficiency;

(2) A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;

(3) A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not for profit;

(4) A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements;

(5) A multitiered marketing business.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.15(259) Application procedure.**

**33.15(1) Application.** Application materials for the program are available from the division and the department for the blind.

**33.15(2) Submittal.** Completed applications shall be submitted to a counselor employed by the division or the department for the blind.

**33.15(3) Review.** Applications will be forwarded to a business development specialist employed by the division for review. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

**33.15(4) Funding.** Before the division will provide funding for a small business, the job candidate must complete an in-depth study about the business the job candidate intends to start and must demonstrate that the business is feasible.

**33.15(5) Appeal.** If an application is denied, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

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#### **877—33.16(259) Award of technical assistance funds.**

**33.16(1) Awards.** Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the job candidate. Technical assistance funds may be awarded, based on need, up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, engineering, legal, accounting, and computer services and other consulting services that require specialized education and training.

**33.16(2) Technical assistance.** When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be provided to assist the job candidate.

**33.16(3) Technical assistance contracts.** The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts shall state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract shall be filed with the division.

**33.16(4) Consultants.** Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) shall be the responsibility of the applicant.

**33.16(5) Case management.** The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

[ARC 6481C, IAB 8/24/22, effective 9/28/22; Editorial change: IAC Supplement 8/23/23]

**877—33.17(259) Business plan feasibility study procedure.** Information and materials are available from the division and the department for the blind. The job candidate shall submit the job candidate's business plan feasibility study to the job candidate's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval. The business development specialist is available to guide and assist in the analysis of the feasibility study.

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#### **877—33.18(259) Award of financial assistance funds.**

**33.18(1) Awards.** Following the business development specialist's review of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor shall make a decision regarding approval or

denial of the recommendation. If the plan is approved, the job candidate and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

*a.* Financial assistance funds may be awarded, based on need, up to \$10,000 after approval of a business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the job candidate must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

*b.* Financial assistance funds may be approved for, but are not limited to, equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

**33.18(2) Award process.** The amount that may be recommended by the business development specialist and approved by the counselor shall be provided when there is a need. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

**33.18(3) Financial assistance contracts.** Contracts for financial assistance funds shall be the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

**33.18(4) Vendors.** Procurement of goods or services shall follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline for delivery of such, shall be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract shall be filed with the division. Approval for payment of authorized goods or services shall be made by authorized division personnel.

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These rules are intended to implement Iowa Code chapter 84G as transferred by 2023 Iowa Acts, Senate File 514, section 2247; the federal Rehabilitation Act of 1973, as amended; and the federal Social Security Act (42 U.S.C. Section 301 et seq.), as amended.

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