

**Regulatory Analysis**  
LSA Document #24-82**I. Description of Rule**

The FSSA-DDRS proposes changes to the rules governing the state's vocational rehabilitation program overseen by the Bureau of Rehabilitation Services' (BRS) Vocational Rehabilitation Services (VR). The proposed rule repeals the outdated [460 IAC 14](#) and promulgates [460 IAC 14.1](#) to bring the rule into compliance with the current federal law (29 USC 701 *et seq*) and the additions to the federal law made with the passage of the Workforce Innovation and Opportunity Act (WIOA) (29 USC 32) and the implementing regulations at 34 CFR 361. WIOA, signed into law in July of 2014, was promulgated on a federal level to help individuals access employment, education, training, and support services. The proposed State rulemaking echoes the desire to help individuals with disabilities access employment, education, training, and support services. Furthermore, the proposed rule clarifies the information provided to citizens of Indiana who may be eligible for support and services provided by VR.

**a. History and Background of the Rule**

The existing rule for vocational rehabilitation was promulgated in 2016 however several factors resulted in the need to update vocational rehabilitation standards. There have been several changes in federal law since the VR rules were initially promulgated. After the final rules for WIOA were released in late 2016, VR began a lengthy process of reviewing and aligning its process, procedures and policies with the federal law. This included reviewing the existing rules to identify necessary changes. In tandem, VR also used the review as an opportunity to provide clarification and streamline standards to better reflect existing policies and practices. Additionally, in 2017 the federal oversight agency conducted a monitoring of vocational rehabilitation services resulting in recommendations that were an outgrowth of the passage of WIOA.

VR provided an opportunity for regulated entities to provide feedback on the current [460 IAC 14](#), in preparation for the development of the proposed rule. Additionally, VR considered data from a review of participant appeals documents, staff feedback, and input from subject matter experts when developing the proposed rule. Internal work groups provided VR with their recommendations for rule changes. These recommendations were based on review of current [460 IAC 14](#), VR program policies and practices, and recent changes to federal laws and regulations that govern the VR program. Additionally, VR discussed the addition of new requirements in the proposed rule with the Indiana Commission on Rehabilitation Services, the federally mandated council representing the disability community charged with advising VR on its policies, procedures and other matters. The commission did not express significant concerns with the proposed changes. Additional opportunity for feedback will be provided to the commission during the public comment period.

**b. Scope of the Rule**

The majority of rule [460 IAC 14.1](#) is not new to VR program participants and stakeholders. These policies were established in 2015 as a result of the passage of the Workforce Innovation and Opportunity Act (WIOA) (29 USC 32) and the implementing regulations at 34 CFR 361. Most changes do not create any new compliance costs on regulated entities, except for draft rule [460 IAC14.1-27-5](#) which is fully explained in the section addressing cost analysis. The draft rules streamline and clarify current rules and policies by removing outdated and inaccurate language and relocating rule language to more appropriate sections.

In response to the federal monitoring of 2017, DDRS has implemented a claims payment system that has centralized the review and approval of providers of services to ensure that providers are qualified. In addition, the claims payment system has streamlined the payment process to ensure vendors receive prompt compensation for their services. In addition, this rule provides standards regarding pre-employment transition services and extended services to youth with most significant disabilities to update Indiana VR to federal regulations.

The method of repeal and replace has been chosen instead of simply amending the existing rules due to the significant reorganization of the rule to ensure that it used more consistently by VR staff, and to meet the goal to make the rule public facing to benefit of citizens of Indiana who need VR services. Where appropriate the draft rule refers directly to 34 CFR 361, thereby preventing the need to amend the rule solely to reflect changes in or interpretations of federal regulations. The draft rule, in the event that it must be updated in the future, is written in a manner that will be very conducive to using the administrative rule amendment process.

**c. Statement of Need**

The purpose of the promulgation of this rule is to bring the current rule into full compliance with the various federal laws that have been passed and updated, and to rectify deficiencies noted in the federal monitoring by the United States Department of Education's Rehabilitation Services Administration in 2017. The federal monitoring, in part, evaluated the compliance of the State's program with various sections within WIOA. If the proposed rule is not promulgated, the State will continue to be out of compliance with WIOA and further federal monitoring findings by the United States Department of Education's Rehabilitation Services Administration will result in corrective actions. More importantly, the purpose of the proposed rule is to help Hoosiers understand the various services and supports that are available to them, and what is required of them to participate in the VR program. Without this clarification individuals with disabilities may not have the proper information.

**d. Statutory Authority for the Proposed Rule**

The statutory authority to the proposed rule is 34 CFR 361; [IC 12-8-8.5-4](#); [IC 12-9-2-3](#); [IC 12-9-5-1](#); [IC 12-9-5-3](#).

**e. Fees, Fines, and Civil Penalties**

This draft rule does not add to or increase any fees, fines, or civil penalties to regulated entities or to participants in the program.

**II. Fiscal Impact Analysis****a. Anticipated Effective Date of the Rule**

The effective date of this rule is thirty (30) days after filing with the publisher.

**b. Estimated Fiscal Impact on State and Local Government**

This draft rule will have no fiscal impact on Local Government. There is no direct fiscal impact on state government as funds are already allotted for these services. This proposed rule will bring the rule currently in place into compliance with federal laws. VR staff will be provided training and companion documentation for updates to the rule. Updated VR program handbooks will be accessible to program applicants, participants and the public. Additionally, providers of VR services will experience little change, and will be given advance notice and support to comply with any new requirements.

**c. Sources of Expenditures or Revenues Affected by the Rule**

The source of expenditures will be House Bill 1001 (2023) which appropriates \$17,077,538 and \$17,077,538 in State Fiscal Years 2023-2024 and 2024-2025, respectively, for VR services and operating expenses.

**III. Impacted Parties**

Each year, the VR Program serves approximately 20,000 Hoosiers with disabilities. The VR program provides services required for each participant to prepare for, secure, or maintain gainful employment. These services are provided by approximately 1,068 service providers, seventy-nine of which are job related service providers. Job related service providers will experience a minor increase in costs as is addressed in the cost analysis.

**IV. Changes in Proposed Rule**

The majority of this rule is not new to VR program participants and stakeholders. Most changes do not create any new compliance costs on regulated entities, except for draft rule [460 IAC 14.1-27-5](#) which is fully explained further below in the section about Rule 27. The draft rules streamline and clarify current rules, policies, and process by removing outdated and inaccurate language and relocating rule language to more appropriate sections. A description of the proposed changes and associated benefits are as follows:

In Draft Rule 3 the following definitions have either been changed or added as follows:

- Draft rule adds a definition of "family member" in [460 IAC 14.1-3-29](#), because the term is used in several times in the body of the rule. The draft rule definition does not point directly to the definition of family member in 34 CFR 361.5(c)(22) because the federal regulations define family members specifically regarding family members "whose receipt of VR services is necessary to enable the applicant or eligible individual to achieve an employment outcome." In the draft rule there are references to family members in other situations.
- Draft rule [460 IAC 14.1-3-40](#) simplifies the definition of the "Individualized Plan for Employment (IPE)" found in current rule [460 IAC 14-3-1-46](#), stating it in more practical terms for the public, and instead includes the requirements of the IPE in the body of Rule 9. Current rule [460 IAC 14-3-1-46](#) lists all the requirements of the IPE in the definition, making the definition more cumbersome than necessary.
- Draft rule [460 IAC 14.1-3-41](#) regarding "informed choice" has been changed to use the CFR citation to be

- more consistent, instead of providing the incomplete definition provided in current rule [460 IAC 14-3-1-49](#).
- Draft rule [460 IAC 14.1-3-42](#) regarding "job related services" has been changed to use the CFR citation to be more consistent than the definition in current rule [460 IAC 14-3-1-52](#).
  - Draft rule [460 IAC 14.1-3-52](#) defining postsecondary training costs has been added to the rule to clarify that training costs include tuition, fees, books, tools and other training materials necessary for the training.
  - Draft rule [460 IAC 14.1-3-59](#) states ""Self-employment" means a competitive integrated employment outcome in which a participant owns a business or works for themselves as their primary source of earned income". Whereas current rule [460 IAC 14-3-1](#)(68) states ""Self-employment" means a competitive employment outcome in which the eligible individual is working for himself or herself independently, rather than as the employee of another individual or entity. The term includes, but is not limited to, a small business operation". The draft rule now includes the language "as their primary source of earned income" in the definition instead of in the body of the rule, where it is currently codified at [460 IAC 14-13-1](#)(3)(A)(ii).
  - Draft rule [460 IAC 14.1-3-60](#) changes the definition of "service priority category" to refer directly to draft rule [460 IAC 14.1-6-2](#) whereas the current rule provides an incomplete definition.
  - Draft rule [460 IAC 14.1-3-62](#) defining "services to family members" has updated the current rule to correctly refer to 34 CFR 361.48(b)(9), which in turn refers to the definition of family member for the purposes of "services to family members". The current rule [460 IAC 14-3-1](#)(71) inaccurately refers to the CFR definition of a family member rather than services to family members.
  - Draft rule [460 IAC 14.1-3-63](#) adds the definition of "student with a disability" because it has a specific meaning and is used within the body of the rule. The definition is, as directed by 34 CFR 361.5(c)(51), based upon [511 IAC 7-32-90](#) which defines the upper limit (the academic year in which the student turns 22 years of age) and [511 IAC 7-43-4](#) which defines the lower limit (14 years of age or when the student has entered the 9th grade, whichever occurs first).
  - Draft rule [460 IAC 14.1-3-67](#) defining supporting services has been changed to provide clarification of current rule [460 IAC 14-3-1](#)(75), and now specifies that these services are provided to enable the participant to access vocational rehabilitation services, and that these services must be listed on the IPE.
  - Draft rule [460 IAC 14.1-3-70](#) defining trial work experiences has been changed from current rule [460 IAC 14-3-1](#)(77) to provide a definition using more positive language that correctly refers to the applicant's ability to achieve competitive integrated employment and also refers directly to 34 CFR 361.42(e) which governs the use of and requirements for trial work experience.
  - Draft rule [460 IAC 14.1-3-75](#) and [460 IAC 14.1-3-76](#) add definitions of "youth with a disability" and "youth with a most significant disability" as these are both used several times throughout the rule. Both are based directly on 34 CFR 361.5(c)(58)(i).

COST: None

BENEFIT: The additions and changes to the above definitions are necessary because the terms are used in the body of the rule and having correct definitions provides clarification to the public reading the rule and the VR program to be able to implement the program services in a consistent manner.

#### Draft Rule 4 Rights and Responsibilities of Applicants and Participants

Draft rule [460 IAC 14.1-4-1](#) states that if an applicant or participant chooses to involve an advocate or family member in their case, they must provide written consent for VR to disclose information to them and is the same standard found in current rule [460 IAC 14-5-8](#).

Draft rule [460 IAC 14.1-4-2](#) addresses cooperation and active participation requirements. Although the current rule lacks a section that addresses the expectations of VR participants to actively participate in their own VR services, it is vital to ensure that services can be delivered in a timely manner to assist the participant to make progress toward their own employment outcome. In practice, VR counselors frequently discuss regular participation and attendance and the need to report changes in their disability to ensure that the participant is getting the correct services to meet their needs.

Draft rule [460 IAC 14.1-4-2](#)(a)(1) and (2) is broadly the same standard in current rules [460 IAC 14-6-2](#)(a)(2) and (3) and [460 IAC 14-16-4](#). Draft rule [460 IAC 14.1-4-2](#)(a)(3)(A) has been added to the rule, however, is current practice as it is discussed in meetings and added to IPEs. Informing VR counselors of changes in contact information, medical condition, and benefits is important because VR Counselors need this information to provide the necessary services to participants. Draft rule [460 IAC 14.1-4-2](#)(a)(3)(B) states that participant should notify the VR Counselor if they are unable to attend a scheduled VR service meeting which is very similar to current rule [460 IAC 14-16-4](#)(b) and (c) which state that the eligible individual must reschedule service appointments and notify their VR Counselor.

Draft rule [460 IAC 14.1-4-5](#) is added language standardizing that VR will issue a determination notice when there are decisions about eligibility and priority category assignment; the termination, denial or reduction in services; and case closure. This addition is important to the public to ensure that participants are receiving written notice which includes information regarding their right to request an administrative hearing when decisions are made with which they disagree.

Draft rule [460 IAC 14.1-4-6](#) is added, standardizing, according to requirements in 34 CFR 361.38(c)(4) the process to follow if an applicant or participant has indicated that they feel like their record of service is inaccurate or misleading and would like it to be corrected.

COST: None

BENEFIT: The benefit of adding this entire section regarding the rights and responsibilities of applicants and participants is the public can view more easily participants' rights and responsibilities independent of the local VR office.

Draft rule [460 IAC 14.1-5-1](#) regarding application for VR services does not represent a change in practice, aligns with federal regulations at 34 CFR 361.41(b)(2) and reduces the risk of being more restrictive than necessary. The draft rule eliminates the restrictive language, found at [460 IAC 14-6-1](#), regarding information that is required to refer a person to the VR program because VR will arrange for any person interested to apply for VR services.

COST: None

BENEFIT: The rule was amended to better align with federal regulations.

Draft rule [460 IAC 14.1-6-1](#) and 14.1-6-2(a) through 14.1-6-2 (b)(1) (Severity Determination and Service Priority) is the same standard in current rule [460 IAC 14-8](#) and current rule [460 IAC 14-9](#) and reflects requirements in 34 CFR 361.36, and 34 CFR 361.5(27), (28) and (29) and does not impose any new compliance costs. Draft rule [460 IAC 14.1-3-37](#), 38 and 39 provides definitions found in current rule [460 IAC 14-8-1](#)(a) and (b). Draft rule [460 IAC 14.1-3-31](#) provides the definition of functional capacity found in current rule [460 IAC 14-8-2](#). Draft rule [460 IAC 14.1-6-2](#) is the standard found in [460 IAC 14-9-3](#).

COST: None

BENEFIT: The rule was amended to better align with the RSA Guidance.

Draft rule [460 IAC 14.1-6-2](#)(b)(2) and [460 IAC 14.1-6-3](#) is a new standard and will enable VR to elect to provide services to participants who are not prioritized to receive services immediately but are at risk of losing their present employment if they do not receive necessary VR services. Upon including this standard in the rule, the state plan will be updated per 34 CFR 361.36(a)(3)(v), to allow for this exception regarding service priority. 34 CFR 361.36(a)(3)(v) allows VR programs to provide specific services to participants who are assigned to an unserved priority category but are at risk of losing their current employment. This new standard also addresses needs that arise out of the current interpretation of post-employment services by the federal oversight agency as addressed in draft rule [460 IAC 14.1-10-1](#).

COST: None

BENEFIT: The benefit of adding [460 IAC 14.1-6-2](#)(b)2 and [460 IAC 14.1-6-3](#) is that it will enable VR to serve participants deferred for services who are at risk of losing employment. This will enable VR to assist more individuals to maintain employment and increase successful outcomes for VR. In addition, it is a proactive measure that may allow VR to reduce spending in the long run because it is often easier to assist a participant to maintain a job rather than spending time and resources to find a new job and provide necessary supports to get a participant stabilized in the new employment.

The draft rule [460 IAC 14.1-7-2](#) describes limits on vocational rehabilitation services and is largely the same standard found in current rule [460 IAC 14-11-3](#) and other locations in the current rule (specifically cited below) and includes some changes and additions for clarification purposes as listed below:

- Draft rule [460 IAC 14.1-7-2](#)(1) is the same standard as current rule [460 IAC 14-11-2](#)(a)(5) and (b).
- Draft rule [460 IAC 14.1-7-2](#)(2) is generally a new standard but is similar to the standard at current rule [460 IAC 14-11-3](#)(a)(9) and clarifies the practice which includes not duplicating services covered by other programs. If a participant is receiving services from another agency or program, it would be nonsensical for

VR to pay for the same service. This will not result in a cost to the participant, and it may result in a savings to the state.

- Draft rule [460 IAC 14.1-7-2\(3\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(1\)](#).
- Draft rule [460 IAC 14.1-7-2\(4\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(2\)](#).
- Draft rule [460 IAC 14.1-7-2\(5\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(3\)](#).
- Draft rule [460 IAC 14.1-7-2\(6\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(4\)](#).
- Draft rule [460 IAC 14.1-7-2\(7\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(6\)](#).
- Draft rule [460 IAC 14.1-7-2\(8\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(7\)](#).
- Draft rule [460 IAC 14.1-7-2\(9\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(8\)](#).
- Draft rule [460 IAC 14.1-7-2\(10\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(9\)](#).
- Draft rule [460 IAC 14.1-7-2\(11\)](#) states that VR will not pay for assistance with services that were obtained before the person became a VR participant. This clarifies to the public that the same standard as current rule [460 IAC 14-11-2\(a\)\(3\)](#) applies to a person who is not yet a participant.
- Draft rule [460 IAC 14.1-7-2\(12\)](#) states that VR will not pay for personal or business debts, or other financial obligations incurred prior to the approval of an IPE. This clarifies to the public that same standard as current rule [460 IAC 14-11-2\(a\)\(3\)](#) applies to the specific items listed and is in keeping with draft rule [460 IAC 14.1-9-1\(a\)](#).
- Draft rules [460 IAC 14.1-7-2\(13\)](#) and (14) refer to limitations associated with general, preventative, or routine medical appointments, exams, or care and treatment of the same. This is the same standard found in current rule [460 IAC 14-11-3\(a\)\(5\)](#), and [460 IAC 14-16-6\(c\)](#), [460 IAC 14-16-7\(c\)](#), and [14-16-8\(c\)](#).
- Draft rule [460 IAC 14.1-7-2\(15\)](#) provides a specific standard regarding limitations in the provision of cosmetic procedures or surgeries unless necessary to achieve the employment outcome, which are currently denied as non-dental cosmetic procedures that are not vocationally necessary for a participant to achieve their employment outcome. Current rule [460 IAC 14-16-8\(c\)\(4\)](#) limits the provision of cosmetic dental treatments only and it was necessary to clarify that this prohibition also includes any cosmetic procedure if it is not necessary to achieve the employment outcome.
- Draft rule [460 IAC 14.1-7-2\(16\)](#) standardizes VR does not assist with medical devices or treatments that are experimental or labeled as "not intended to diagnose, treat, cure any disease" or not approved by the FDA. This is an outgrowth of [460 IAC 16-1\(2\)\(B\)](#) and [16-1\(3\)\(A\)](#) and (B). If a medical device or treatment is experimental, not approved by the FDA, or not intended to treat or cure a disease, VR is unable to determine that the treatment or device corrects or improves an impairment or eliminates or reduces a substantial impediment to employment, which would mean that the treatment should not be considered vocationally necessary. The added language in the draft rules reinforces that VR will not assist paying for these products and treatments as they have not been rigorously studied to scientifically demonstrate they successfully treat medical symptoms or diseases, and there is no anticipated increase in cost.
- Draft rule [460 IAC 14.1-7-2\(18\)](#) states that VR does not pay for the care of service animals. Although this standard is new, it will not impose a cost because VR does not pay for the care of service animals, and therefore the rule will not result in anyone losing assistance with the cost of their service animal. Additionally, the federal regulations do not include the provision of assistance for the care of a service animal within the scope of VR services.
- Draft rule [460 IAC 14.1-7-2\(19\)](#) has long been interpreted to be covered under the current standard as "ongoing health maintenance" at [460 IAC 14-11-3\(a\)\(5\)](#) but to avoid confusion, the draft language more explicitly states that VR does not pay for "ongoing" in-home nursing or other in-home services.
- Draft rule [460 IAC 14.1-7-2\(20\)](#) revises the current rule [460 IAC 14-11-3\(5\)](#) to accurately reflect 34 CFR 361.5(c)(39)(xiv) which states that providing for emergency or acute medical treatment that is a result of VR provided physical or mental restoration is within the scope of VR services.
- Draft rule [460 IAC 14.1-7-2\(21\)](#) is the same standard as current rule [460 IAC 14-11-3\(a\)\(10\)](#).

Current rule [460 IAC 14-11-3\(b\)](#) states that the director may grant a request for an exception for services provided in current rule [460 IAC 14-11-3\(a\)](#). The draft rule no longer references the need to address exceptions in this section of the rule. Draft rule [460 IAC 14.1-8-1](#) is a new section to specifically address the request for and consideration of the need for exceptions. This is thoroughly addressed in that section of this document.

COST: None

BENEFIT: The benefit of these changes is that the scope of VR is better organized and clarified for the public to read and understand and it helps empower strong participation and advocacy.

Draft rule [460 IAC 14.1-7-3](#) is regarding the requirement that VR provide necessary services at the least cost to meet the need of the participant. The standard of providing necessary services at the least cost has not changed although some of the language in current rule [460 IAC 14-11-2](#) is now found other sections of the draft rules. Draft

rule [460 IAC 14.1-7-3\(a\)](#) is the same standard as in current rule [460 IAC 14-11-2\(a\)\(1\)](#). Draft rule [460 IAC 14.1-7-3\(b\)](#) which states that assistance from VR will not exceed the least costly as determined by price quotes or the rate set by the VR program is similar to current rule [460 IAC 14-11-2\(a\)\(2\)](#). Draft rule [460 IAC 14.1-7-3\(c\)](#) regarding the use of Medicaid rates for medical services is the same standard found in current rule [460 IAC 14-23-1](#). Draft rule [IAC 14.1-7-3\(d\)](#) is the same standard found in current rule [460 IAC 14-11-2\(b\)](#) and states that if a participant chooses a more costly option, they are responsible for the difference in cost. The current rule [460 IAC 14-11-2\(a\)\(1\)](#) states that services may only be procured from qualified providers, and this is addressed in draft rule [460 IAC 14.1-7-6\(a\)](#) where it states that a provider must be registered with BRS and draft rule 27 which addresses requirements for becoming a registered vendor. Draft rule [460 IAC 14.1-7-5](#) states that VR must authorize for services before they are provided, and this is the same standard in current rule [460 IAC 14-11-2\(a\)\(3\)](#) which states that services must be "prior approved". Draft Rule [460 IAC 14.1-7-6\(a\)](#) is a new standard and reflects that in May of 2019 VR implemented a claims payment system which requires providers to register in the VR-CPS system before a participant can select them as a service provider. Draft Rule [460 IAC 14.1-7-6\(b\)](#) states that a participant may request to change their service provider, which codifies an existing current practice to ensure participants can exercise informed choice, as mentioned throughout the current rule.

COST: None

BENEFIT: The benefit of this section is that it consolidates these requirements into one section rather than this information being scattered throughout the rule.

Draft Rule [460 IAC 14.1-8-1](#) (Exception Process) is a revised standard and is necessary because although the current rule [460 IAC 14-11-3\(b\)](#) addresses exceptions it requires the director of BRS to be involved in the exception process which is more appropriately be done at the local level. 34 CFR 361.50 indicates the State may have policies to ensure reasonable cost and establish reasonable time periods for the provision of services but must permit exceptions to these so that individual needs can be appropriately addressed. In accordance with 34 CFR 361.50, draft rule [460 IAC 14.1-8-1](#) provides a process for VR participants to request exceptions to limits in financial assistance and time limits. Draft rule [460 IAC 14.1-8-1\(c\)](#) requires the VR participant to submit their request to the VR Area Supervisor rather than the director of BRS as is the standard in current rule [460 IAC 14-11-3\(b\)](#). This change will allow VR to better assess the need for an exception as the Area Supervisor will be better equipped to assess the participant's individualized need for the exception. Lastly it also provides that if an exception is requested and denied the participant will be able to request an impartial due process hearing.

COST: None

BENEFIT: This revised standard establishes a clear process that will better address the individual needs of VR participants because the staff with more direct contact with the participant are able to review and assess the need for the exception, and in addition the draft rule makes it clear to the public that they have the right to request an impartial due process hearing if they are dissatisfied.

Draft rule [460 IAC 14.1-9-2\(a\)](#) regarding individualized plan for employment is the same standard as current rule [460 IAC 14-12-1](#) but has been updated for consistency to refer directly to 34 CFR 361.46(a)(1). As previously noted in the section regarding rule 3 (definitions) of this document, the draft rule removes the requirements of the individualized plan for employment from the definition and they are now listed in the body of the rule at [460 IAC 14.1-9-1](#). Draft rule [460 IAC 14.1-9-2\(b\)](#) has been added and states that employment that cannot be maintained for at least 90 days cannot be chosen as an employment outcome and identified on a participant's individualized plan for employment because it is too temporary in nature and cannot meet the criteria for successful closure per 34 CFR 361.56(b).

COST: None

BENEFIT: This revised language is more consistent with the CFR and gives authority to VR Counselors to deny supporting an employment outcome that will not be able to result in a successful closure due to the temporary nature of the employment.

Draft Rule [460 IAC 14.1-10-1](#) (Post Employment Services) standard is similar to the current standard but has been amended to reflect 34 CFR 361.5(c)(41) and federal guidance issued in an FAQ by Rehabilitation Services Administration on March 11, 2022. This FAQ indicates post-employment services are to be provided after a VR participant has obtained employment, but before the VR case is closed.

COST: None

**BENEFIT:** The rule was amended to align with the RSA Guidance.

Draft Rule [460 IAC 14.1-11-1](#) (Driver Training Services) standardizes language regarding the provision of driver training services. The standard for driver training services is included in the current vehicle modification services rule at current rule [460 IAC 14-19-3](#); however, since this service is often provided outside the provision of vehicle modification services, it was necessary to clarify the existing standard. Draft rule [460 IAC 14.1-11-1\(a\)](#) standardizes when driver training services are appropriate to provide, ensuring that VR has the authority to provide driver training when it is necessary to achieve an employment outcome or otherwise participate in VR services. Draft rule [460 IAC 14.1-11-1\(b\)](#) and (c) states that the evaluation and training must be provided by a Driver Rehabilitation Specialist, and that the participant must have the proper driver's license or permit to receive the training. Draft rule [460 IAC 14.1-11-1\(d\)](#) clarifies VR authority to not start or to interrupt driver training if the driver rehabilitation specialist has determined it is appropriate to interrupt training or not start training in the first place due to lack of progress or required skills respectively. Draft rule [460 IAC 14.1-11-1\(e\)](#) reinforces VR authority to require supporting documentation indicating there has been an improvement in skills or abilities if the participant has been previously evaluated by VR and found to be inappropriate for driver training.

**COST:** None

**BENEFIT:** The benefit of this rule is that it clarifies the authority for VR to provide driver evaluation and training when it is necessary and to deny the provision of the service after an evaluation or training has been provided if it is determined by the driving rehabilitation specialist that it is not appropriate to continue to provide the services either due to a lack of skills or progress.

Draft Rule [460 IAC 14.1-12](#) (Self Employment Services for Operating a Small Business) reflects the language of current rule [460 IAC 14-13](#). It is more detailed for the purposes of clarity for VR participants and providers, as well as VR staff who use the rule to guide the provision of these complicated and potentially expensive services.

Draft rule [460 IAC 14.1-3-59](#) (in the definitions section) states ""Self-employment" means a competitive integrated employment outcome in which a participant owns a business or works for themselves as their primary source of earned income"" whereas current rule [460 IAC 14-3-1\(68\)](#) states ""Self-employment means a competitive employment outcome in which the eligible individual is working for himself or herself independently, rather than as the employee of another individual or entity. The term includes, but is not limited to, a small business operation". The draft rule now includes the language "as their primary source of earned income" in the definition instead of in the body of the rule, where it is currently codified at [460 IAC 14-13-1\(3\)\(A\)\(ii\)](#).

Draft rule [460 IAC 14.1-12-1](#) establishes the definition of terms regarding self-employment services that appear throughout rule 12. Draft rule [460 IAC 14.1-12-1\(a\)](#) explains who comprises the business review committee and the purpose of the committee. It is current practice for a business review committee to evaluate the business plan. Draft rule [460 IAC 14.1-12-1\(b\)](#) defines "start-up costs" and is the same as current rule [460 IAC 14-13-1\(1\)](#). Draft rule [460 IAC 14.1-12-1\(c\)\(1\)](#) and (2) defines the "startup period" and it is essentially the same as current rule [460 IAC 14-13-1\(4\)](#) except now it provides for a period of 24 months. This change is warranted because it gives VR the authority to limit providing support to businesses that are not projected to be self-sustainable in 24 months. Draft rule [460 IAC 14.1-12-1\(d\)](#) which defines ongoing operating costs and is very similar to current rule [460 IAC 14-13-1\(2\)](#) but adds specific examples of operating costs.

Draft rule [460 IAC 14.1-12-2\(a\)](#) is the same standard as current rule [460 IAC 14-13-2\(a\)](#) and (b). Current rule [460 IAC 14-13-4\(a\)](#) states that a comprehensive business plan must be submitted for review and approval. Draft rule [460 IAC 14.1-12-2\(c\)](#) also states that the comprehensive business plan must be submitted, and draft rule [460 IAC 14.1-12-2\(b\)](#) adds language to define what is minimally required in a comprehensive business plan.

The current rule at [460 IAC 14-13-6\(a\)](#) establishes what a start-up business is, that a comprehensive business plan is to be reviewed and approved by VR before support is provided, and that VR shall not be the sole source of financing.

Draft Rule [460 IAC 14.1-12-3\(c\)](#) proposes to establish the level of contribution expected from the participant to be 25% if they are requesting up to \$10,000 in start-up costs and 50% if they are requesting \$10,001 to \$30,000, unless, as required by federal regulations, the participant is a recipient of Social Security Disability or Supplemental Security Income benefits, in which case participant contribution is not required. In addition, the draft rule proposes to establish that VR can contribute up to a limit of \$30,000 toward the start-up costs of a business. If a participant needs more than the \$30,000 of funding to start their business, VR will have assisted the

participant in writing a comprehensive business plan that can be used by the participant to apply for business loans or sources of funding to cover additional costs to start their business. This language in the proposed rule does not result in an increased cost to any vendors or providers. Draft rule [460 IAC 14.1-12-3\(d\)](#) provides that a maximum amount of \$30,000 in assistance may be provided for business start-up unless an exception is granted. Draft rule [460 IAC 14.1-12-3\(h\)](#) provides that the start-up period shall not exceed twenty-four (24) months unless an exception to the time limit is granted. Alternatively, if the participant feels that they need additional time for their start up period as they approach the end of the startup period, VR will issue a notice referring to the rule, and the participant could then follow the process to request an extension.

Current rule [460 IAC 14-13-1\(3\)](#) defines what a "small business operation" means and therefore would possibly be able to receive assistance from VR. This draft rule has been written to clarify the standard for the public and VR staff implementing the rule but has been written to state what will NOT be considered a small business operation that can receive VR support. Draft rule [460 IAC 14.1-12-4\(a\)\(1\)](#) and (2)(F) are both examples of businesses that are not independently owned and operated and therefore would not receive VR assistance, which is the same standard in current rule [460 IAC 14-13-1\(3\)\(A\)\(i\)](#). Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(B\)](#) and (G) are both examples of businesses that would not receive VR assistance according to the standard in current rule [460 IAC 14-13-1\(3\)\(A\)\(iii\)](#) because they do not market a product to customers, and [460 IAC 14-13-1\(3\)\(B\)\(ii\)](#) because the VR participant is not directly engaged in the management or operation of the business. Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(A\)](#) and (D) are examples of businesses that VR would not support because they are illegal or would not be complying with other laws. Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(C\)](#) states that VR cannot assist with a business that is not expected to produce a profit because this would not meet the criteria that VR assist participants to achieve an employment outcome that is competitive integrated employment. Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(E\)](#) is an example of a business that could not receive VR assistance because it does not meet the standard in current rule [460 IAC 14-13-1\(3\)\(B\)\(ii\)](#). Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(H\)](#) is the same standard in current rule [460 IAC 14-13-1\(3\)\(B\)\(i\)](#), except that it clarifies that if the VR participant is part owner, they must be at least fifty-one percent owner. Draft rule [460 IAC 14.1-12-4\(a\)\(2\)\(I\)](#) explicitly states that VR cannot assist with businesses that are already in existence which has been implied by the terms "start-up costs" and "start-up period" and by other language in the current rule including current rule [460 IAC 14-13-6\(b\)](#).

Draft rule [460 IAC 14.1-12-4\(b\)](#) lists business expenses that are not eligible for reimbursement by the VR program. This list of business expenses not covered by VR is new language but based on the federal regulations or standards in the current rule as follows: Draft rule [460 IAC 14.1-12-4\(b\)\(1\)](#) through (9) are business expenses that are not in the scope of VR services per 34 CFR 361.48(b). Draft rule [460 IAC 14.1-12-4\(b\)\(10\)](#) states that VR will not reimburse for rent or utilities if the business is operated out of the participant's home which is the same standard in current rule [460 IAC 14-3-1\(53\)](#) which defines maintenance per 34 CFR 361.5(b)(35), although the correct CFR reference is now (34).

COST: None. The language in Rule 12 does not impose a new cost.

BENEFIT: The changes that have been made to this rule regarding assisting with small business services is beneficial for all involved. By standardizing a maximum amount of \$30,000 in funding for start-up expenses, the participants and the providers of technical assistance that assist participants with business plan development, will have clear parameters when developing their business plan. These limitations will also result in business plans that are more manageable for both participants, providers of technical assistance and VR staff, which may result in more participants being able to navigate developing a business plan and to successfully start a small business. In addition, the added language and clear parameters in the rule may result in more VR Counselors successfully assisting their participants in exploring and pursuing what is often seen as a daunting set of services. The \$30,000 maximum provides considerable opportunity to provide for a VR participant's startup business expenses if a business plan is approved, but also gives VR the authority to enforce that upper limit in order to be a good steward of federal funds and Indiana taxpayer dollars. In addition, codifying the specific contributions criteria based on the level of assistance requested aids in preparing participants to be successful in self-employment after their VR case has been successfully closed.

Draft Rule 13 regarding referring a participant for the business enterprise program (BEP) training program has been added to align with [460 IAC 2-4-5](#), which sets the standard for the business enterprise program as authorized by the Randolph Shepard program. Current rule [460 IAC 14-3-1\(15\)](#) provides the definition of the "Business enterprise program" that it means the Indiana Randolph-Sheppard Business Enterprise Program authorized by 20 U.S.C. 107 and [IC 12-12-5](#). However, the current rule does not provide any standard for referring a participant to receive training or assistance with the BEP program. Draft rule [460 IAC 14.1-13-1\(a\)](#) states that a person may be referred and complete an evaluation meets the criteria set forth in [460 IAC 2-4-5](#) and that being a BEP licensed manager must be listed as the employment goal on the individualized plan for



employment, which is consistent with draft rule [460 IAC 14.1-9-1](#), and current rule [460 IAC 14-12-22-2](#). Draft rule [460 IAC 14.1-13-1](#)(b) states that a participant may receive assistance with remediation if they are unable to meet criteria set in draft rule [460 IAC 14.1-13-1](#)(a). Draft rule [460 IAC 14.1-13-1](#)(c) provides standards for assisting a person with pursuing an employment goal in the BEP program, after they have completed the training. Draft rule [460 IAC 14.1-13-1](#)(d) provides that the participant may pursue another employment outcome if they are unable to become a licensed manager and draft rule [460 IAC 14.1-13-1](#)(e) provides that a participant can continue to have an employment outcome of BEP licensed manager while they wait for a facility to become available. This language has been added to the rule to provide guidance for VR staff and the public regarding the ability of VR to refer and support participants who can benefit from this training. Current rule [460 IAC 14-22-3](#) has been moved to draft rule [460 IAC 14.1-22-1](#)(c) where the rule addresses ownership of goods after a case has been closed.

COST: None. The language in Rule 13 does not impose a new cost.

BENEFIT: The main benefit of adding the language in this section is that it provides the public with valuable information regarding services, that may be available if they qualify as blind, that will enable them to become a licensed manager of a business enterprise program facility as their employment outcome.

Draft Rule 14 regarding supported employment services and extended services has been updated to align with new federal regulations regarding extended services. The current rule [460 IAC 14-14-1](#) strictly refers to CFR 363.1. Draft rule [460 IAC 14.1-14-1](#)(a) and (b) describes who can receive supported employment services and the length of time these services can last in accordance with the federal regulations. Draft rule [460 IAC 14.1-14-2](#)(a) reflects the changes in the CFR because of WIOA, and states, if required VR may provide extended services, as defined in draft rule [460 IAC 1-3-27](#), for youth with a most significant disability for up four years or up to age twenty-five, whichever occurs first. Draft rule [460 IAC 14.1-14-2](#)(b) clarifies that for individuals with a most significant disability (who are not youth) the VR program will coordinate extended services from another entity which is consistent with CFR 361.5(19)(iv).

COST: None.

BENEFIT: The benefit of this rule is that it clarifies for the public and VR staff that VR can provide supported employment services for up to 24 months (and longer if necessary) and perhaps more importantly that VR can provide for the cost of extended services for youths with a most significant disability for up to four years or up to age twenty-five, in accordance with current federal regulations, which is a departure from previous regulations and policies.

Draft Rule 15 regarding physical and mental restoration services is much the same standard as current rule 16. Draft rule [460 IAC 14.1-15-1](#)(a) states that a participant may receive physical or mental restoration services when an impairment can be corrected or significantly improved with the provision of services and the services will eliminate or significantly reduce the impediment to employment within a reasonable period of time. This is the same standard as current rule [460 IAC 14-16-1](#)(2)(B) and [460 IAC 14-16-1](#)(3). Draft rule [460 IAC 14.1-15-1](#)(b) states that these services must be prescribed by a person who does not have a financial interest in the service being provided and is not a family member and this language has been added to reduce the risk of a conflict of interest. Draft rule [460 IAC 14.1-15-1](#)(c) states that a participant may need to undergo an evaluation if additional information is required which is similar to current rule [460 IAC 14-16-1](#)(2)(A) and [460 IAC 14-16-2](#) which states that restoration services can be provided if they have been prescribed or recommended by a qualified professional. Current rule [460 IAC 14-16-2](#) actually provides a list of qualified specialists however this is now included in the service provider section of draft rule [460 IAC 14.1-27-3](#). Draft rule [460 IAC 14.1-15-1](#)(d) states that a participant must use available comparable benefits to pay for restoration services which is consistent with CFR 361.5 (8) and current rule [460 IAC 14-16-1](#)(1). Draft rule [460 IAC 14.1-15-1](#)(e) states that assistance with restoration services may not exceed Medicaid rates which is the same standards as [460 IAC 14-23-1](#), but now provides for the ability to request an exception under [460 IAC 14.1-8-1](#).

Draft rule [460 IAC 14.1-15-2](#) is the same standard as current rule [460 IAC 14-16-3](#) but has added language for clarity. Draft rule [460 IAC 14.1-15-2](#) (a)(1) states that the participant is responsible for the upkeep of equipment or devices provided, which is the same as current rule [460 IAC 14-16-3](#)(a) but the draft rule better clarifies that consumable or disposable components are part of maintenance of the equipment or devices provided. Draft rule [460 IAC 14.1-15-2](#)(a)(2) states that VR will not pay to repair items due to negligence on the part of the participant which is the same standard as [460 IAC 14-16-3](#)(b)(2)(d). Draft rule [460 IAC 14.1-15-2](#)(b) states that the participant can receive assistance if the restoration services previously provided no longer meet the needs of the participant and this is the same as current rule [460 IAC 14-16-3](#)(c). Draft rule [460 IAC 14.1-15-2](#)(c) states that VR will replace items previously provided if they are required to reach the employment outcome

which is the same standard in current rule [460 IAC 14-16-3](#)(c). Draft rule [460 IAC 14.1-15-3](#) is the standard for when a participant is unable to keep service appointments and is the same standard found in current rule [460 IAC 14-16-4](#), however the draft rule no longer states that the participant could be terminated from VR services in this part of the rule since the consequences for repeated failure to attend scheduled appointments is covered in draft Rule 26.

Draft rule [460 IAC 14.1-15-4](#) states that VR will pay for a second opinion only if the VR program determines that it is necessary to assist the participant to achieve their employment outcome, which is the same standard as [460 IAC 14-16-5](#) except that the current rule unnecessarily states that if VR determines that a second opinion is not required the participant will be required to pay for the second opinion. Draft rule [460 IAC 14.1-15-5](#) provides standards for conditions that require continuing treatment and is the same standard in current rule [460 IAC 14-16-9](#).

The draft rule pertaining to physical and mental restoration no longer singles out visual restoration services, hearing restoration services, or dental restoration services, as in current rule [460 IAC 14-16-6](#), [460 IAC 14-16-7](#), [460 IAC 14-16-8](#). The standards regarding the provision of these services are the same as for all other physical and mental restoration services, and there is no need to include separate provisions for this subset of physical and mental restoration services.

COST: None

BENEFIT: The benefit of this draft rule is that it clarifies and updates the language in the current standard.

Draft Rule 16 provides standards for the provision of supporting services that are consistent with federal regulations and are current practice. Indiana VR has referred to these services as "supporting services" in practice as is indicated by current rule [460 IAC 14-3-1](#)(75), [460 IAC 14-18-12](#), and on page 8 in the Postsecondary Handbook. These services include transportation (34 CFR 361.48 (b)(8)); maintenance (34 CFR 361.48 (b)(7)); and services to family members and childcare (34 CFR 361.48 (b)(9)). Supporting services are provided when someone will experience an increase in their costs in order to be able to participate in VR services and they would be unable to participate without the support. These services are provided to ensure that the participant is able to take advantage of VR services that will enable them to achieve their employment outcome. Draft rule [460 IAC 14.1-16-1](#) describes when an applicant or participant can receive supporting services in general.

Draft rule [460 IAC 14.1-16-2](#) standardizes when a person may receive assistance with transportation and with what kind of transportation expenses. Current rule [460 IAC 14-18-5](#) describes transportation assistance for participants who receive assistance with postsecondary training services. The draft rule clarifies VR can assist with transportation needs to support any type of service. Draft rule [460 IAC 14.1-16-2](#)(b)(1) states that participants are responsible for costs of vehicle ownership and upkeep which is the same standard in [460 IAC 14-19-14](#)(8). Draft rule [460 IAC 14.1-16-2](#)(b)(2) states that VR participants are responsible for the costs of ongoing transportation related to maintaining a job, which is aligned with 34 CFR 361.5(c)(56) which provides for VR to provide transportation assistance to a participant to enable them to participate in VR services to reach their employment outcome.

Draft rule [460 IAC 14.1-16-3](#) standardizes when a person may receive assistance with maintenance while receiving other VR services. Draft rule [460 IAC 14.1-3-43](#) defines "maintenance" the same as current rule [460 IAC 14-3-1](#)(53). Current rule [460 IAC 14-3](#)(75) refers to "maintenance" being part of supporting services. Draft rule [460 IAC 14.1-16-3](#) provides clear information to the public regarding when and what maintenance can be provided. These parameters are consistent with 34 CFR 361.5(c)(34). It should also be noted that in the current rule the word "maintenance" was used several times throughout, but often was referring to the maintenance of devices, assistive technology, vehicles, etc. The draft rule provides clarity by using "upkeep" in place of "maintenance" in those circumstances.

Draft rule [460 IAC 14.1-16-4](#) standardizes when a person may receive assistance with services to family members including childcare. Current rule [460 IAC 14-3-71](#) is the same as draft rule [460 IAC 14.1-3-62](#) which defines services to family members per federal regulations. Current rule [460 IAC 14-18-4-2](#)(d) indicates that VR can assist participants receiving postsecondary training with childcare or elder care if necessary, however the current rule must be revised to be consistent with federal regulations because services to a family member, including childcare, are not limited to those participants receiving postsecondary training.

COST: None.

**BENEFIT:** The benefit of having descriptions of supporting services and when they are available for the participant in the rule is that it provides valuable information to the public regarding support that they can receive that will enable them to benefit from VR services and successfully achieve their employment outcomes.

Draft rule [460 IAC 14.1-17-1](#) regarding hearing aid requirements corrects current rule [460 IAC 14-17-4\(a\)\(1\)\(C\)](#) to fix a typographical error, where "or" was used inadvertently instead of "and". The current rule states that documentation is required from a licensed physician "or" audiologist. Draft rule [460 IAC 14.1-17-1\(b\)\(1\)\(C\)](#) has been corrected to say "and" instead of "or". VR requires a physician to provide a medical diagnosis, hearing aid clearance and a prescription for the correct device, whereas the audiologist works with the individual to determine the specific needs with regard to amplification and the exact features of the hearing devices. VR requires a physician to provide medical clearance for the hearing aids, to ensure that there is no other explanation for the loss of hearing that requires treatment other than hearing aids. In accordance with 34 CFR 361.5(c)(5), as indicated in draft rule [460 IAC 14.1-3-8](#), VR provides for the cost of both evaluations, if they are not already available, to obtain the required documentation.

**COST:** None.

**BENEFIT:** The benefit of this change is that it fixes a typographical error and makes clear VR relies on the knowledge and expertise of the respective occupations.

Draft Rule [460 IAC 14.1-18-1](#) regarding postsecondary training services is largely the same standard as in the current rule [460 IAC 14-18-1](#) through 14-18-13; however, it is better organized and written to increase clarity for both the public and VR staff implementing these services. Overall, the added language in the draft rule does not impose an administrative or fiscal impact on the VR program or participants. The added language has the benefit of clearly explaining the expectations and requirements to receive postsecondary training services.

Draft rule [460 IAC 14.1-18-1\(a\)](#) and (b) is language from the current rule [460 IAC 14-18-1\(a\)\(1-4\)](#). Draft rule [460 IAC 14.1-18-1\(c\)](#) promulgates a standard of information that participants already submit to VR. The draft rule states that participants must submit proof of enrollment and information about their program and if they have a defaulted student loan, they must provide documentation showing the defaulted student loan has been resolved, deferred or forgiven. Lastly participants must apply for financial aid by the priority deadline set by Indiana Commission on Higher Education, provide a copy of the student aid report, and authorization for VR to communicate with the financial aid office of the institution they are attending. Current rules [460 IAC 14-18-1\(b\)](#), [460 IAC 14-18-5\(c\)](#), and [460 IAC 14-18-4\(e\)](#) each reference financial aid.

Draft rule [460 IAC 14.1-18-1\(d\)](#) explains requirements for participants to continue to receive assistance with postsecondary training services, which do not represent a substantive change from the current standard and do not impose a cost to participants. Draft rule [460 IAC 14.1-18-1\(d\)\(1\)\(A\)](#) is stated in current rule at [460 IAC 14-18-6\(d\)](#). Draft rule [460 IAC 14.1-18-1\(d\)\(1\)\(B\)](#) states that a participant must turn in their class schedule, so that VR can ensure that the courses align with the employment outcome listed on the IPE, and this is stated in the postsecondary handbook. The rest of draft rule [460 IAC 14.1-18-1\(d\)](#) requires that participants are meeting academic requirements and completing the program within a reasonable period of time. The requirements do not pose an increased cost to the student and help to ensure that the student can successfully complete their training and continue to be eligible for financial aid.

The requirement set forth in draft rule [460 IAC 14.1-18-1\(e\)](#) is that participants submit documentation within one month of the start of the term or semester. Participants already share this documentation with VR staff which helps ensure the requirements set forth in the rules are met. Draft rule [460 IAC 14.1-18-1\(f\)](#) states that an individual cannot receive assistance from VR to attend a school that is not eligible to participate in federal financial aid due to a loss of accreditation. Draft rule [460 IAC 14.1-18-1\(f\)](#) protects the participant from receiving training from educational institutions without proper accreditation.

Draft rule [460 IAC 14.1-18-2](#) describes the amount of financial assistance to be provided for postsecondary training services, and for the public, clarifies the language found in current rule [460 IAC 14-18-4](#). Per 34 CFR 361.54, if the state chooses to consider financial needs of participants the state must have written policies regarding the consideration of financial need, a mechanism to request an exception and ensure the rule is applied consistently therefore the draft rule has been written accordingly. Draft rule [460 IAC 14.1-18-2\(a\)](#) and (b) specifies that VR will pay up to the lesser of published postsecondary training costs where the participant is attending or the published postsecondary training costs at the least costly institution that provides the necessary training minus the available comparable benefits, grants and scholarships. This language is in the current rule [460 IAC](#)

[14-18-4\(a\)\(1\)](#) and (2) in combination with current rule [14-18-1\(b\)](#). Draft rule [460 IAC 14.1-18-2\(c\)](#) specifies other supports available and how much assistance is allowed, and this language can be found in the current rule [460 IAC 14-18-4 \(b\)](#) and (c). Draft rule [460 IAC 14.1-18-2\(d\)](#) specifies that a participant's available resources will be considered when VR determines the amount of assistance they will receive for postsecondary services. This language can be found in current rule [460 IAC 14-18-1\(b\)](#). Draft rule [460 IAC 14.1-18-2\(e\)](#) adds clarity to the current standard at current rule [460 IAC 14-18-3](#) and [18-4](#), by explaining participants are responsible for any expenses that exceed the assistance provided by the VR program. Draft rule [460 IAC 14.1-18-2\(f\)](#) is a new standard which says that if an overpayment to a postsecondary training institution occurs, the following term's assistance can be reduced by the amount of the overpayment, to resolve the overpayment. This will not result in an increased cost to the participant and may reduce state spending.

Draft rule [460 IAC 14.1-18-3](#) clarifies the process to request an exception for time or financial limits on assistance with postsecondary services as required by 34 CFR 361.50 and refers to the standard in draft rule [460 IAC 14.1-8-1](#). This process is currently inadequately operationalized under [460 IAC 14-11-3\(b\)](#).

Draft rule [460 IAC 14.1-18-4](#) clarifies the academic expectations currently codified at [460 IAC 14-18-6 \(b\)](#). This reflects current practice and can be found in the postsecondary handbook.

Draft rule [460 IAC 14.1-18-5](#) describes requirements for a participant to change their degree, drop or add a course and repeat a course. This clarifies the current standard at [460 IAC 14-18-8](#). Draft rule [460 IAC 14.1-18-5\(a\)\(1\)](#) requires a participant to notify their VR counselor before changing their course of study. Per 34 CFR 361.45(b)(2), a participant's Individualized Plan for Employment (IPE) must be designed to reach a specific employment outcome, and therefore before a participant changes their course of study, they must work with their VR counselor to be sure that their IPE is updated appropriately. Draft rule [460 IAC 14.1-18-5\(a\)\(2\)](#) requires the student to notify the VRC before adding or withdrawing a class. This requirement is important because financial assistance for postsecondary training services may need to be increased or decreased based on the courses a participant is taking. Draft rule [460 IAC 14.1-18-5\(a\)\(3\)](#) requires the participant to notify their VRC if they are going to repeat a course and is a clarification of the current standard at [460 IAC 14-18-8](#). Clarifying the expectations around notifying VR prior to making course changes improves engagement, communication, and outcomes. This reflects current practice and can be found in the postsecondary handbook.

Draft rule [460 IAC 14.1-18-6](#) regarding remedial coursework reflects the current standard at [460 IAC 14-18-13](#).

COST: None

BENEFIT: The benefit of the entire rule regarding the provision of postsecondary training is that it more clearly standardizes how VR determines the level of assistance that can be provided based on both published upper guidelines established each year and the analysis of comparable benefits and services to determine the level of assistance for each individual participant. Additionally, it enables VR to better leverage resources to assist participants with education and employment outcomes. It also standardizes the procedure to request an exception as required by federal regulation. Lastly it clearly defines responsibilities of the participant which enables VR to identify if additional supports are required to realize success and to ensure federal and state dollars are appropriately provided to participants making adequate progress in their training programs.

Draft rule [460 IAC 14.1-19](#) (Vehicle Modification) are similar standards to standards found in current rule [460 IAC 14-19](#). Current rule [460 IAC 14-19](#) includes language regarding driver evaluation and training and as indicated above in this document, and driver evaluation and training is addressed separately in draft rule [460 IAC 14.1-11](#).

Draft rule [460 IAC 14.1-19-1\(b\)\(5\)](#) requires the participant to submit a copy of the estimate for insurance of the vehicle before receiving the modification. Participants already submit this information to VR staff. It helps participants understand the cost of purchasing insurance for the vehicle, so they are prepared to meet the requirement to have insurance, currently established at [460 IAC 14-19-10](#) and in the draft rule at [460 IAC 14.1-19-2\(7\)](#) and (8). Draft rule [460 IAC 14.1-19-1\(b\)\(6\)](#) requires that the participant, or if they are not the owner of the vehicle, the registered owner, agree in writing that the modification is authorized to begin. This ensures that the participant (and as appropriate the registered owner) fully understands the permanent modification that is being installed on the vehicle. Currently these requirements are explained and acknowledged when the participant signs the participant agreement form.

Draft rule [460 IAC 14.1-19-1\(d\)](#) and [460 IAC 14.1-19-3\(a\)](#) is current practice and broadly the same standard as current rule [460 IAC 14-19-6\(a\)](#) and specifies the circumstances under which vehicles must have a premodification inspection before a vehicle modification can be performed. The draft rule now specifies that

premodification inspections must be performed by an ASE-certified mechanic. VR requires a pre-modification inspection of the vehicle to be completed by an ASE-certified mechanic, because ASE-certified mechanics have the qualifications to complete an inspection that will ensure that the vehicle is operating properly and has the structural integrity to receive the vehicle modification. "ASE certified mechanic" is defined in the draft rule definitions and is an industry standard. The ASE mechanic does not do the vehicle modification, they only do the pre-modification inspection. With this addition the draft rules provide more substantive explanation of what constitutes a qualified service provider to do a vehicle modification inspection. This inspection does not impose an increased cost to the participant, because VR already requires inspections to be completed by an ASE certified mechanic.

Draft rule [460 IAC 14.1-19-2\(a\)\(1\)](#) requires the participant to obtain and maintain insurance to cover the value of their vehicle and modifications and is current practice and stated as one of the requirements in the Vehicle Modification Participant Agreement which requires the participant to submit a letter of intent to insure from an insurance company and is consistent with current rule [460 IAC 14-19-10](#) (a) which states that a person must secure and maintain insurance for the modified vehicle. Draft rule [460 IAC 14.1-19-2\(a\)\(2\)](#) and (3) standardizes current practice and information included in the vehicle modification participant agreement, and states that participants agree that they will not drive a modified vehicle until the vehicle has been inspected and as applicable will not drive until the remaining driver training has been provided. This addresses significant safety concerns for newly modified vehicles and new drivers of modified driving equipment. Draft rule [460 IAC 14.1-19-2\(a\)\(4\)](#) is broadly the same standard as current rule [460 IAC 14-19-8\(a\)](#) and (b) in that it requires that there be an inspection after the completion of a vehicle modification by vehicle modification service providers. They conduct a functional inspection and a mechanical inspection of the vehicle modification. The language in the draft rule is less prescriptive and process oriented than the current rule. Draft rule [460 IAC 14.1-19-2\(a\)\(5\)](#) is the same standard at [460 IAC 14-19-11](#) and is regarding the potential for a rebate and what is required.

Draft rule [460 IAC 14.1-19-2\(a\)\(6\)](#) standardizes current practice as identified in the Participant Vehicle Modification Agreement and states that it is the participant's responsibility to ensure that all maintenance and repairs to the vehicle modifications are performed by manufacturer certified technicians. Draft rule [460 IAC 14.1-19-2\(a\)\(7\)](#) standardizes the responsibility of the participant to submit claims for damages to a vehicle modification with their insurance because current rule [460 IAC 14-19-10\(b\)\(2\)](#) and draft rule [460 IAC 14.1-19-2\(a\)\(8\)](#) requires the participant to use the settlement towards the replacement of a vehicle modification. Draft rule [460 IAC 14.1-19-2\(a\)\(9\)](#) standardizes current practice as indicated in the Participant Vehicle Modification Agreement. Draft rule [460 IAC 14.1-19-2\(a\)\(10\)](#) is the same standard found in current rule [460 IAC 14-19-14\(8\)](#) indicating that it is the participant's responsibility to pay for the upkeep of the vehicle modification and costs associated with the operation of the vehicle.

Draft rule [460 IAC 14.1-19-3\(a\)](#) is current practice and broadly the same standard as current rule [460 IAC 14-19-12\(d\)](#) and specifies the circumstances under which participants who have previously received assistance with modified vehicles can receive subsequent modifications. The draft rule clarifies that in order to determine that a vehicle modification no longer meets a participant's vocational rehabilitation needs there must be a change in a participant's functional limitations due to their disability. Draft rule [460 IAC 14.1-19-3\(b\)](#) and (c) clarifies the language of current rule [460 IAC 14-19-12](#) which addresses when VR can pay for subsequent vehicle modifications. Draft rule [460 IAC 14.1-19-3\(b\)](#) states that VR may pay for 100% of costs, if it has been five years since the original modification was provided, the vehicle has been driven 100,000 miles in total and the current vehicle modification no longer meets the needs of the participant. Current rule [460 IAC 14-19-12\(c\)](#) states that VR may pay for the full cost if it has been five years and the vehicle has been driven for at least 75,000 miles. The draft rule provides clarity and will be easier to implement consistently across the state.

Draft rule [460 IAC 14.1-19-3\(c\)](#) states that if a participant previously received a vehicle modification, they may receive assistance with 50% of the cost if it has been less than five years since the modification and the vehicle or modification cannot be repaired. Current rule [460 IAC 14-19-12\(b\)](#) states that VR may pay for 50% of the cost of a modification if it has been three to five years since the original modification and the vehicle has been driven at least 50,000 miles since the last modification. The draft rule stipulates that VR will only cover half the cost the vehicle modification if the vehicle or vehicle modification cannot be repaired whereas the current rule does not. In practice the great majority of participants wait until the modification is more than five years old when they request assistance with a new vehicle modification, and as a result it is very seldom that VR assists with only 50% of a vehicle modification. Both the draft rule and current rule allow for a subsequent modification to take place sooner if the modification is necessary due to substantial changes in the participant's functional needs. The draft rule will be easier to implement on a consistent basis and balances well the interest of participants and good stewardship of tax dollars. Both the draft rule and current rule allow for a subsequent modification to take place sooner if the modification is necessary due to substantial changes in the participant's functional needs.

Draft rule [460 IAC 14.1-19-4](#) addresses limitations regarding the provision of vehicle modifications and is the same standard found as listed below:

- Draft rule [460 IAC 14.1-19-4](#)(a) is broadly the same standard as [460 IAC 14-19-7](#) and states that VR may provide modifications that have guidelines established by the National Mobility Equipment Dealers Association (NMEDA).
- Draft rule [460 IAC 14.1-19-4](#)(b)(1)(A) and (B) are the same standard as current rule [460 IAC 14-19-14](#)(1)(A) and (B). Draft rule [460 IAC 14.1-19-4](#)(b)(1)(C) is the same standard as current rule [460 IAC 14-19-14](#)(4).
- Draft rule [460 IAC 14.1-19-4](#)(b)(2) is the same standard as current rule [460 IAC 14-19-14](#)(3).
- Draft rule [460 IAC 14.1-19-4](#)(b)(3) is the same standard as current rule [460 IAC 14-19-14](#)(5).
- Draft rule [460 IAC 14.1-19-4](#)(b)(4) is the same standard as current rule [460 IAC 14-19-14](#)(8).
- Draft rule [460 IAC 14.1-19-4](#)(b)(5) is the same standard as current rule [460 IAC 14-19-14](#)(9).
- Draft rule [460 IAC 14.1-19-4](#)(b)(6) is the same standard as current rule [460 IAC 14-19-14](#)(11).
- Draft rule [460 IAC 14.1-19-4](#)(b)(7) is the same standard as current rule [460 IAC 14-19-14](#)(12).
- Draft rule [460 IAC 14.1-19-4](#)(b)(8) is the same standard as current rule [460 IAC 14-19-14](#)(13).
- Draft rule [460 IAC 14.1-19-4](#)(b)(9) is the same standard as current rule [460 IAC 14-19-14](#)(14).

Draft rule [460 IAC 14.1-19-4](#)(b)(10) has been added to this rule to specifically address vehicle modifications but is the same standard as current rule [460 IAC 14-16-3](#)(d) which states that the VR program does not pay to repair or replace assistive technology devices or equipment, (which includes vehicle modifications) that have been damaged due to negligence or abuse by the participant. The current rule was not clear that this standard was also applicable to vehicle modifications.

COST: None

BENEFIT: The draft rule regarding vehicle modifications gives authority to VR to provide responsibly and safely these often costly yet vital services to participants with significant disabilities. It is not uncommon for participants to return to VR for subsequent modifications because vehicles wear out and participants depend on their modified vehicles to maintain employment. It is important for the rules to clearly define the responsibility and limitations of vehicle modification services so that the public has the information that they need to make decisions about obtaining and maintaining vehicles when they require vehicle modification services.

Draft Rule [460 IAC 14.1-20](#) (Home Modification) is the same standard as current rule [460 IAC 14-20](#) although it has been reorganized and adds some clarifying language. The draft rule also codifies language explaining the home modification process in the home modification agreement form. The added language for clarity, transparency, and understanding does not impose an administrative or fiscal burden on participants.

Draft Rule [460 IAC 14.1-20-1](#)(a) clarifies that home modification services may be provided if, without the modification, the participant is unable to participate in VR services or employment. This is the same standard as current rule [460 IAC 14-20-1](#)(b) which states that the home modification is "vocationally necessary" to achieve the planned employment outcome. Draft Rule [460 IAC 14.1-20-1](#)(b)(1-4) describes what must happen before receiving home modification services. Draft Rule [460 IAC 14.1-20-1](#)(b)(1) requires the VR participant provide the name of the owner of the home to facilitate draft rule [460 IAC 14.1-20-1](#)(b)(4) which requires written consent. It is very important for the VR counselor to communicate with the homeowner before proceeding with necessary evaluations. Draft rule [460 IAC 14.1-20-1](#)(b)(2) requires a home modification evaluation and is the same standard as current rule [460 IAC 14-20-2](#)(a). Draft rule [460 IAC 14.1-20-1](#)(b)(3) which requires all repairs to be completed to make the home fit for modification by the VR participant is current practice and clarifies the same standard at [460 IAC 14-20-8](#)(4) and (9) which states that VR does not pay for ordinary costs of homeownership and VR does not pay for maintenance, repair, or replacement of home modifications that are not vocationally relevant. Draft rule [460 IAC 14.1-20-1](#)(b)(4) requires written consent from the homeowner which is the same standard as current rule [460 IAC 14-20-7](#)(c).

Draft Rule [460 IAC 14.1-20-2](#)(a) clarifies the scope of home modifications currently found in current rule [460 IAC 14-20-3](#). Draft Rule [460 IAC 14.1-20-2](#)(a)(1) and (2) clarifies current rule [460 IAC 14-20-3](#) (1) and specifies that one entrance may be modified to allow access to the home including a ramp or lift if required. This reinforces that VR does not modify multiple exits because multiple exits would not be required to achieve an employment outcome. Draft Rule [460 IAC 14.1-20-2](#)(a)(3) clarifies that VR modifies one bathroom because that is all that is required to achieve an employment outcome. Draft Rule [460 IAC 14.1-20-2](#)(a)(4) clarifies that VR provides modifications to facilitate access to and movement to bed, bathroom, entrance and other areas necessary for obtaining or maintaining employment. Draft rule [460 IAC 14.1-20-2](#)(a)(5) which states that modification of a workspace may be provided is the same standard as rule [460 IAC 14-20-3](#)(2), but clarifies VR provides these

services if the participant's employment outcome permits them to work from home. Draft Rule [460 IAC 14.1-20-2\(a\)\(7\)](#) adds that VR may modify a laundry area if the participant is unable to launder their clothing and the modification will make it possible to launder clothing without assistance. Draft Rule [460 IAC 14.1-20-2\(b\)](#) clarifies current rule [460 IAC 14-20-1\(b\)](#) reinforcing authority for VR to provide minimum necessary home modifications that are constructed using standard materials, to meet the goals of the home modification, and the preference to provide services for the least cost (draft rule [460 IAC 14.1-7-3](#)).

Draft Rule [460 IAC 14.1-20-3\(a\)](#) clarifies the responsibilities of the participant while receiving home modifications. Draft Rule [460 IAC 14.1-20-3\(b\)](#) describes responsibilities of the participant after the modification has been completed. Current rule [460 IAC 14-20-8\(8\)](#), [14-11-3\(7\)](#), [14-16-3\(a\)](#) contains this same information regarding maintenance of home modification and assistive technology, but the draft rule includes all relevant responsibilities in one place, which adds to clarity and eliminates the need to use a separate agreement to explain responsibilities.

Draft rule [460 IAC 14.1-20-4](#) is broadly the same standard but has been simplified for clarity and correctness. The rule also adds that the participant must be present for the inspection to ensure that the home modification addresses the barriers that are affecting achieving the employment outcome.

Draft rule [460 IAC 14.1-20-5\(a\)](#) and (b) is new language stating that home modification services shall be discontinued if the participant no longer has an open case with VR. The draft rule would allow VR to close the case in the course of a home modification and the participant would be required to pay for the home modification to be completed or removed, based on their preference.

Draft rule [460 IAC 14.1-20-6](#) describes specific limitations regarding home modification services and is very similar to current rule [460 IAC 14-12-8](#) where prohibited uses of home modification assistance are outlined. The limitations are listed below with the corresponding current rule, documentation supporting that they are current practice, or an explanation of the need to add them into the rule.

- Draft rule [460 IAC 14.1-20-6\(a\)\(1\)](#) which limits structural additions is found at current rule [460 IAC 14-20-8\(6\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(2\)](#) and (3) which limit the purchase of land or the construction of a building are found in current rule [460 IAC 14-20-8\(1\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(4\)](#) which limits modifications that are inconsistent with local building codes is found in current rule [460 IAC 14-20-8\(2\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(5\)](#) which limits modifications if the home is determined to be unfit for modification is found in current rule [460 IAC 14-20-8\(3\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(6\)](#) contains new language in the rule stating that VR will provide for the necessary home modifications to make the home accessible while establishing standards and limits so that home modifications can be provided at the least cost to meet the vocational needs of participants. This rule is addressing situations in which a home has elaborate landscaping that will be disturbed by installing a ramp to provide entry to the home. These standards are current practice and are explained in the participant agreement form.
- Draft rule [460 IAC 14.1-20-6\(a\)\(7\)](#) limits costs related to upkeep and repair related to home ownership and operation and is the same as current rule [460 IAC 14-20-8\(4\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(8\)](#) limits costs to maintain or service modifications and is similar to the current rule at [460 IAC 14-20-8\(8\)](#) which states that VR is not responsible for on-going home ownership, and in addition this is listed in the home modification agreement form.
- Draft rule [460 IAC 14.1-20-6\(a\)\(9\)](#) which limits the modification of a home that is not the participant's primary place of residence is the same as current rule [460 IAC 14-20-8\(5\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(10\)](#) which limits modifications that are solely related to general safety or security of the home is the same as current rule [460 IAC 14-20-8\(8\)](#).
- Draft rule [460 IAC 14.1-20-6\(a\)\(11\)](#) contains new language in the rule that limits paying costs that are related to cosmetic or aesthetic features of construction to match existing home aesthetics. This will allow VR to provide necessary home modifications to make the home accessible while establishing standards and limits so that home modifications can be provided at the least cost to meet the vocational needs of participants.
- Draft rule [460 IAC 14.1-20-6\(a\)\(12\)](#) is new language that limits the purchase, modification or replacement of appliances, pools, whirlpool tubs, saunas, tanning beds, hot tubs in home modification services. VR does not assist with these items and this language would codify this standard.
- Draft rule [460 IAC 14.1-20-6\(a\)\(13\)](#) is new language that limits the removal of home modifications after they have been installed. This is current practice and is stated in the home modification participant agreement form.
- Draft rule [460 IAC 14.1-20-6\(a\)\(14\)](#) is new language that limits costs related to damage to personal property,

from construction debris, dust and accidental damage during construction. It is current practice to advise participants to stow away and protect their belongings during a home modification as part of the home modification agreement.

Draft rule [460 IAC 14.1-20-6](#) (b) proposes to limit home modification services to one time per ten years unless the participant experiences an increase in their functional limitations thereby requiring additional modifications to maintain employment sooner than ten years. This balances well the interest of participants and good stewardship of tax dollars. It also codifies a standard to prevent the abuse of this service, which does not add cost to any provider or vendor. In addition, it should be noted that if a participant has extenuating services, they can apply for an exception in under Draft Rule [460 IAC 14.1-8-1](#).

COST: None

BENEFIT: Codifying the rule to be specific about the limitations of home modification services will enable VR to implement this service in a fair and consistent manner. Limiting the service to being provided only once every ten years hold participants accountable to maintain and service their home modifications while recognizing that some modifications may wear out and require replacement after ten or more years.

Draft rule [460 IAC 14.1-21](#)(1)(b) states that a VR participant may receive assistance with obtaining an occupational license or certification when it is required for an immediate job placement or vocational training. The current rule does not explicitly state that VR provides this service, although it is current practice and is specifically required in 34 CFR 361.48(b)(16). This draft rule language also limits this assistance such that VR does not provide assistance with fees associated with maintaining occupational licenses or certifications, including periodic or annual license renewal.

COST: None

BENEFIT: Provides clarity to both VR staff and the public as to when VR will assist with the cost of occupational licensing or certifications.

Draft rule [460 IAC 14.1-22](#) addresses the ownership of goods that have been purchased for a participant and is the same standard found in current rule [460 IAC 14-21-3](#),[460 IAC 14-22-1](#) and [460 IAC 14-22-2](#). Draft rule [460 IAC 14.1-22-1](#)(a) which states that all tools and equipment remains the property of VR until successful case closure (except as specified in (2)(b) and (c)) is the same standard as [460 IAC 14-22-1](#). Draft rule [460 IAC 14.1-22-2](#)(b) which states some exceptions to draft rule [460 IAC 14.1-22-1](#)(a) is the same standard as [460 IAC 14-22-2](#). Draft rule [460 IAC 14.1-22-2](#)(c) is the same standard as [460 IAC 14-22-3](#). The following language- "except that hand tools and adaptive equipment purchased for the personal use of an eligible individual become the property of the eligible individual," was removed because it was redundant of draft rule [460 IAC 14.1-22-1](#)(a)(1). Draft rule [460 IAC 14.1-22-2](#) regarding upkeep, repair of and replacement of tools and equipment is the same standard found in current rule [460 IAC 14-22-4](#)(2), [460 IAC 14-11-3](#)(7) and [460 IAC 14-16-3](#)(a) and [460 IAC 14-16-3](#)(c) and (d). Draft rule [460 IAC 14.1-22-3](#) regarding participant responsibilities is the same standard in current rule [460 IAC 14-22-4](#).

Cost: None. The draft rules clarify the existing standard and do not impose a compliance cost.

Benefit: Draft rule [460 IAC 14.1-22](#) is now more organized and addressed in one section as opposed to being several different locations in the current rule and provides clarity to the public.

Draft rule [460 IAC 14.1-24](#) regarding Pre-Employment Transition Services is new language bringing the rule in compliance with 34 CFR 361.48(a). Draft rule [460 IAC 14.1-24](#)(a) explains who qualifies for pre-employment transition services per the federal regulations, and draft rule [460 IAC 14.1-24](#)(b) describes how VR will know that the student qualifies for preemployment transition services.

Cost: None.

Benefit: Brings the rule into compliance with federal regulations.

Draft rule 26 (Case Closure) outlines the reasons for case closures. Draft rule [460 IAC 14.1-26-1](#) is the same as current rule [460 IAC 14-7-8](#). Draft rule [460 IAC 14.1-26-2](#) is same standard as current rule [460 IAC 14-10-2](#) where it refers to requirements set forth in 34 CFR 361.56. However, the draft rule provides clarity to the public as to the criteria, set forth in 34 CFR 361.56, which must be met before a participant will be closed as having



successfully achieved their employment outcome.

Draft rule [460 IAC 14.1-26-3](#) outlines other specific reasons for case closure. While most of the case closure reasons are the same as listed in the current rule, a few have been added to align with federal reporting requirements and others have been added for reasons to be further explained.

The following draft rules are the same and correspond to the following current rules:

- Draft rule [460 IAC 14.1-26-3](#)(1)(A) is the same as current rule [460 IAC 14-7-7](#).
- Draft rule [460 IAC 14.1-26-3](#)(1)(E) is the same as current rule [460 IAC 14-10-3](#)(1);
- Draft rule [460 IAC 14.1-26-3](#)(1)(H) is the same as current rule [460 IAC 14-10-3](#)(10);
- Draft rule [460 IAC 14.1-26-3](#)(1)(I) is the same as current rule [460 IAC 14-10-3](#)(5);
- Draft rule [460 IAC 14.1-26-3](#)(1)(M) is the same as current rule [460 IAC 14-10-3](#)(7);
- Draft rule [460 IAC 14.1-26-3](#)(1)(O) is the same as current rule [460 IAC 14-10-3](#)(11).
- Draft rule [460 IAC 14.1-26-3](#)(1)(F) which states that the participant is unavailable to participate or is refusing to contact their VR counselor is a clarification of the language in current rule [460 IAC 14-10-3](#)(4) which states that the individual cannot be located.
- Draft rule [460 IAC 14.1-26-3](#)(1)(B) is new language and is required if a participant needs a trial work experience but refuses to participate.
- Draft rule [460 IAC 14.1-26-3](#)(1)(J) is new language and is required if the participant requests their case be closed.
- Draft rule [460 IAC 14.1-26-3](#)(1)(P) is new language and required if a participant has a pattern of harassing, verbally abusing, threatening or exhibiting violent behavior which impedes the VR process.

The following draft rules have been added to align with federal reporting requirements:

- Draft rule [460 IAC 14.1-26-3](#)(1)(C) which states that the person is no longer available due to a health or medical issue.
- Draft rule [460 IAC 14.1-26-3](#)(1)(D) which states the participant has been call to active military duty from reserve forces.
- Draft rule [460 IAC 14.1-26-3](#)(1)(G) which states that the participant has entered a correctional facility and is unavailable to participate in VR services.
- Draft rule [460 IAC 14.1-26-3](#)(1)(K) is new and is required if the participant uses their informed choice to not pursue an employment outcome.
- Draft rule [460 IAC 14.1-26-3](#)(1)(L) is new and is required if the participant has received VR services but cannot be successfully closed because the required extended services were not available.
- Draft rule [460 IAC 14.1-26-3](#)(1)(N) is new and is required if a participant chooses to pursue extended employment and the required referral has been made (this is referring to Section 511).

Cost: None. The draft rules do not impose any cost on the participant.

Benefit: The draft rules as written will assist VR staff in correctly notifying a participant of the reason for their case closure, support the reasons for case closure and align more directly with federal reporting requirements.

Draft rule 14.1-27 (Registration and Responsibilities of Service Providers) promulgates requirements related to VR program service providers and codifies the current service provider process and requirements. The current rule stipulates VR services can only be provided by qualified service providers. This proposed language clarifies current VR policy and practice regarding how VR ensures service providers are qualified and is federally mandated under 2 CFR 200.

Draft rule [460 IAC 14.1-27-1](#) outlines the requirements to register to become a service provider currently in practice and outlined in the VR-CPS Vendor Manual. VR-CPS is the Vocational Rehabilitation Claims Payment System that was implemented in 2019 in part to provide a system to vet and monitor service providers to ensure that they are qualified and meeting necessary credentialing and licensing standards.

Current rule states that VR services can only be procured from a qualified service provider. Draft rule [460 IAC 14.1-27-1](#)(b) specifies that if vendor is disbarred or suspended from providing services, they will be ineligible to be a vendor until the problem is resolved.

Draft Rule [460 IAC 14.1-27-2](#) standardizes the expectations if a service provider wishes to stop being a service provider for VR. The purpose of this rule is to ensure that participants are not negatively affected by a provider deciding to stop providing services by requiring fair notice and a smooth transition to ensure a limited interruption in services.

Draft rule [460 IAC 14.1-27-3](#) standardizes service provider responsibilities. These requirements are current practices outlined in the vendor manual, the current rule and the Vocational Rehabilitation Vendor Provider Agreement that vendors must agree to before registering.

Draft rule [460 IAC 14.1-27-4](#) describes the provisions for conflict of interest, currently codified at [460 IAC 14-11-4](#) with added language to ensure providers are treating VR participants ethically.

Draft rule [460 IAC 14.1-27-5](#) specifically addresses requirements for providers of job-related services and will result in a nominal increase in cost. The increase in costs are addressed in detail in section VI. Draft rule [460 IAC 14.1-27-5\(a\)\(2\)](#) requires job-related service providers to ensure any new employee hired on or after the effective date of rule promulgation to receive training meeting Association of Community Rehabilitation Educators (ACRE) certified training competencies within twelve (12) months of the hire date. ACRE training is an industry standard that ensures providers of job-related services are equipped to deliver quality services. Costs for training satisfying ACRE competencies will be largely offset by VR and will include time spent in the training; providers can also seek out ACRE training from several national and regional training programs. Providers will not be required to ensure existing employees hired before the effective date of draft rule receive ACRE competency training.

Draft rule [460 IAC 14.1-27-5\(a\)\(3\)](#) requires job-related service providers to ensure all staff receive at least 4 hours of employment-focused training annually to ensure quality service delivery and fidelity to program policies and processes. This training will result in higher quality services for vocational rehabilitation participants resulting in increased successful job placements. This employment-focused training will be made available to providers for a nominal cost in time.

Draft rule [460 IAC 14.1-27-5\(a\)\(4\)](#) states that job-related service providers will accept referrals unless there is a conflict of interest or insufficient staff. [460 IAC 14.1-27-5\(b\)](#) outlines procedures that approved job related service providers must follow if they are unable to accept referrals. It is expected that job related service providers notify VR within two (2) days if they are unable to serve a referred participant to ensure that VR can assist the participant in choosing a different provider promptly to address the urgency of job-related services.

Draft rule [460 IAC 14.1-27-6](#) states that vehicle modification providers must meet the standard set forth in [IC 9-32-11-2.5](#) (c)(2). This is current practice in VR and currently all twelve approved providers of vehicle modification services have submitted documentation that they are NMEDA members and QAP certified as this was required to be approved as a provider of this service.

Draft rule [460 IAC 14.1-27-7\(a\)\(1\)](#) states that home modification providers are required to carry \$1,000,000 in liability insurance which is current practice and all home modification providers comply. Current rule at [460 IAC 14-20-4\(4\)](#) states in error that they are required to carry \$100,000 in liability insurance. Draft rule [460 IAC 14.1-27-7\(b\)\(1\)](#), (2) and (3) is the current practice and standardizes in the rule that home modification providers will guarantee the home modification for one year, provide written documentation regarding warranty of the products that are installed in the home modification and be licensed and obtain required permits, license and inspections as required per local and state statutes. This information is currently found in the *Home Modification Services Information for Contractors* provided to providers of home modification services upon approval as a provider. Draft rule [460 IAC 14.1-27-7\(c\)](#) codifies the minimum training for home modification evaluators. This is the minimum level of training that all eight providers of this service already meet so there will be no cost to providers.

Draft rule [460 IAC 14.1-27-8](#) defines who is qualified to provide interpreter services to participants who are deaf and hard of hearing and is the same standard found in current rule [460 IAC 14-3-1\(7\)](#).

Draft rule [460 IAC 14.1-27-9](#) is the standard in current rule [460 IAC 14-16-2](#) regarding the qualifications for physical and mental health restoration service providers. The current rule lists providers requiring licensures to practice in Indiana and was written prior to the implementation of the VR Claims Payment System. This is no longer necessary as the VR Claims Payment System requires providers of those medical services to submit a copy of licensure or certification if they are required to have licenses to practice in Indiana before they are approved as vendors in the claims payment system.

Draft rule [460 IAC 14.1-27-10](#) states current practice that driver rehabilitation specialists must be certified by Association for Driver Rehabilitation Specialist (ADED) and clarifies the current standard found at [460 IAC 14-19-5\(1\)](#).

Draft rule [460 IAC 14.1-27-11](#) is a new standard but is necessary to establish legal basis for a service provider to

be terminated and requirements to resolve termination if the provider is interested in becoming approved again. The current rule does not provide for when a previously approved service provider can be terminated or for when the service provider could reapply to become an approved provider again.

**COST:** None – There is no increased cost in any of the parts of draft rule [460 IAC 14.1-27](#) with exception of draft rule [460 IAC 14.1-27-5](#) which is discussed in section VI.

**BENEFIT:** The draft rule gives VR the authority to clarify the qualifications to be approved as a service provider and require documentation supporting the qualifications. The proposed service provider requirements in Rule 27 are mandated by state law or necessary for the fiscal administration of the VR program according to federally mandated cost principles under 2 CFR 200. Currently, per [IC 12-12-1-4.1](#), the job-related service providers must meet accreditation requirements by one of the organizations listed, however there are no minimum training requirements for the individuals providing direct services to VR participants. A benefit to the VR participants is that job related service providers will receive robust quality training anticipated to result in improved outcomes, job supports, and timely services. A benefit to the job-related service providers is that the staff providing these services will be more skilled with the goal of obtaining better outcomes resulting in achieving payment points for the service provider. Additionally providing better training for employment service providers could result in reducing turnover and increase capacity to serve VR participants effectively.

Draft Rule 28 standardizes current practice and provides new parameters with regard to payments made to service providers for services rendered to VR applicants and participants. As stated previously in the CBA section for Rule 27, a new claims payment system was implemented in 2019 and it has served to improve the process for vendors to submit to VR for payments and has resulted in more timely payments being made to vendors by VR. The current rule does not provide any parameters regarding the timeliness of claim submissions. It is important for claims to be submitted and paid in a timely manner for several reasons. VR reports quarterly to the federal oversight agency regarding obligated funds and the spending of grant dollars and at the end of a federal fiscal year, all outstanding authorizations and claims must be resolved. If claims are submitted after a grant year has been closed (usually more than two years after the grant has ended), VR cannot use federal grant funds to pay for the claim. Financial forecasting, which is required for state planning purposes, is improved when authorizations are fiscally rectified (either paid or canceled) within a reasonable period of time. Timely submission of claims also results in less administrative burden for VR vendors and VR staff because it is much easier to confirm that payments requests are correct and have not been submitted previously or incorrectly. Alternatively, there are valid instances in which the vendor may not be able to submit for payment in a timely manner, for example when the vendor is waiting for a comparable benefit, such as insurance to pay for a portion of a service for a participant before submitting a claim to VR.

Draft rule 28 standardizes reasonable expectations and exceptions regarding vendors submitting claims for payments. In addition, it will ensure that VR is addressing late claims and payments consistently across the state and across vendors. They are as follows:

Draft rule [460 IAC 14.1-28-1\(a\)](#) is the current practice and states that a service provider shall not receive payment in advance for the provision services. Draft rule [460 IAC 14.1-28 \(b\)\(1\)](#) states that a vendor must become a registered provider in the VR claims payment system which became the practice when the claims payment system, referred to previously, was implemented. Draft rule [460 IAC 14.1-28 \(b\)\(2\)-\(4\)](#) states vendors must submit their claims and supporting documentation that the services have been rendered within ninety (90) days of the provision of the service. Draft rule [460 IAC 14.1-28 \(c\)](#) states that claims submitted after 90 days of the service being provided are untimely. This is similar to language in the vendor agreement, although the number of days is increased from 60 days to 90 days. Draft rule [460 IAC 14.1-28-1\(d\)](#) and (e) state that untimely claims shall not be paid unless a waiver is granted. Draft rule [460 IAC 14.1-28-1\(f\)](#) explains reasons for which a waiver will be granted. Draft rule [460 IAC 14.1-28-1 \(g\)](#) provides a time limit for resubmitting a claim that has been denied. Draft rule [460 IAC 14.1-28-1\(h\)](#) and (i) are current standard found in current rule [460 IAC 14-11-2\(a\)\(3\)](#), and state that the VR program shall not pay for goods or services obtained without prior approval, although draft rule uses "authorization for services" rather than prior approval. Draft rule [460 IAC 14.1-28-1\(j\)](#) provides that the service provider may request an impartial due process hearing if their claim has been denied.

[460 IAC 14.1-28-2](#) is new language and requires a participant or provider to reimburse the VR program if there has been an overpayment. Although overpayment rarely happens, it is current practice that providers repay VR when they recognize an overpayment or when they are notified that VR has noticed an overpayment.

Cost: None.

Benefit: The benefit of Rule 28 is that it standardizes current practice and provides parameters for timely requests for payments and how to manage situations in which payment requests are untimely. Ultimately it will provide the authority for VR to deny paying a claim that is over two years old after the federal grant has closed. These rules will eliminate the need to rely solely on the Vocational Rehabilitation Vendor Agreement to support these practices.

Draft rule [460 IAC 14.1-29-1](#) regarding information supervisory review is broadly the same standard as current rule [460 IAC 14-24-1](#) except that it states that the review must be completed, and the area supervisor must notify the participant of the outcome within ten (10) business days.

Cost: None.

Benefit: Allowing for ten (10) days to review a decision and either affirm or change the decision allows enough time for the area supervisor and VR counselor to fully review the situation, the applicable rule, and if appropriate meet with the participant to better understand the needs of the participant.

Draft Rule 30 is about due process hearings and is broadly the same as current rule [460 IAC 14-25](#), but the language is more concise. Draft rule [460 IAC 14.1-30-1](#) (a) and (b) is the same standard as [460 IAC 14-25-1](#) with the following exceptions: Current rule [460 IAC 14-25-1](#) (b) requires the participant to submit their request for review within twenty (20) days and the draft rule requires the participant to submit their request for review within fifteen (15) days. This change will enable VR to get matters addressed in a timelier manner. Draft rule [460 IAC 14.1-30](#) (b)(3) states that if an applicant or participant requires accommodations they must include this information in their request for the review whereas current rule [460 IAC 14-25-2](#) (a) which states they must submit their request for accommodations at least five (5) days before the scheduled hearing. This change has been made because five (5) days is not enough time to arrange for accommodations such as an interpreter for the deaf, resulting in the need to delay the hearing. Draft rule [460 IAC 14.1-30-1](#) (b)(2) is the standard in current rule [460 IAC 14-25-3](#) (a) and (b). Draft [460 IAC 14.1-30-1](#) (d) is the same standard as current rule [460 IAC 14-25-3](#) (c). Draft rule [460 IAC 14.1-30-1](#) (e) is the same standard as current rule [460 IAC 14-25-5](#) (a).

Draft rule [460 IAC 14.1-30-3](#) and [460 IAC 14.1-30-4](#) is the same standard as rule [460 IAC 14-25-6](#) and [460 IAC 14-25-5](#) respectively and mediations and impartial due process hearings are conducted in accordance with [IC 4-21.5-3.5](#) and managed by the Office of Administrative Law Proceedings (OALP) under the Administrative Orders and Procurement Act (AOPA).

Draft rule [460 IAC 14.1-30-5](#) regarding an administrative review of the outcome of a due process hearing is the same standard found in current rule [460 IAC 14-25-7](#) with two exceptions. The draft rule specifically cites that the review may be requested in accordance with [IC 4-21.5-3-28](#), and that the reviewing authority is held by the director of the division of disability and rehabilitative services in accordance with 34 CFR 361.57(g)(3)(iv).

Cost: None.

Benefit: The benefit of the changes in this rule is that it is more concise and correctly cites other state rules as appropriate. The minor change in the rule that requires participants to request accommodations at the time of the request for the appeal will allow for due process hearings to take place in a timely manner and it which will limit the need for rescheduling due process hearings.

Several requirements that incorporate existing agency standard are clarified in the draft rule. These standards can be found in various handbooks, informational agreements, and guides provided to participants, vendors and VR staff. Throughout the section above we have referenced these documents and they are listed below:

- RSA FAQ 22-03-0 - Post Employment Services
- Self- Employment Handbook
- VR Postsecondary Services Handbook
- Vehicle Modification Guide (internal guidance for staff)
- Participant Vehicle Modification Agreement
- Home Modification Handbook
- Home Modification Participant Agreement
- Closure case services report 911
- VR Services Manual Version 4.0
- Vocational Rehabilitation Provider Agreement
- Home Modification Services Information for Contractors
- Aware Individualized Plan for Employment - Responsibilities Section

## V. Benefit Analysis

### a. Estimate of Primary and Direct Benefits of the Rule

The primary and direct benefits of the rule include the integration of Hoosiers with disabilities in the labor market and their financial independence through gainful employment. The draft rule brings the rule into compliance with the current federal law (29 USC 701 et seq) and the additions to the federal law made with the passage of the Workforce Innovation and Opportunity Act (WIOA) (29 USC 32), signed into law in July of 2014. Lastly, because the draft rules clarify the current rules and are written to be public facing thereby increasing transparency of the program to the citizens using the program, it is hoped that the successful outcomes, measured by the competitive integrated employment of people with disabilities, will increase.

### b. Estimate of Secondary or Indirect Benefits of the Rule

The secondary and indirect benefits of the rule include employers and the economic benefit to the State of Indiana from increased employment for Hoosiers with disabilities.

### c. Estimate of Any Cost Savings to Regulated Industries

As the proposed rules reflect current practice and policies there is no anticipation of any cost savings to regulated industries as a result of the proposed rules.

## VI. Cost Analysis

### a. Estimate of Compliance Costs for Regulated Entities.

The majority of the proposed changes do not result in increased cost to any service providers or regulated entities because they reflect current policies and therefore service providers are in compliance. One exception is the addition of training requirements for job-related service providers.

Draft rule [460 IAC 14.1-27-5](#) specifically addresses requirements for providers of job-related services and will result in a nominal increase in cost. Draft rule [460 IAC 14.1-27-5\(a\)\(2\)](#) requires job-related service providers to ensure any new employee hired on or after the effective date of rule promulgation to receive training meeting Association of Community Rehabilitation Educators (ACRE) certified training competencies within 12 months of the hire date. ACRE training is an industry standard that ensures providers of job-related services are equipped to deliver quality services. Costs for training satisfying ACRE competencies will be largely offset by VR and will include time spent in the training. Providers can also seek out ACRE training from a number of national and regional training programs. Providers will not be required to ensure existing employees hired before the effective date of draft rule receive ACRE competency training.

Draft rule [460 IAC 14.1-27-5\(a\)\(3\)](#) requires job-related service providers to ensure all staff receive at least 4 hours of employment-focused training annually to ensure quality service delivery and fidelity to program policies and process. This training will result in higher quality services for vocational rehabilitation participants resulting in increased successful job placements. This employment-focused training will be made available to providers for a nominal cost in time.

COST: Based on a recent survey of seventy-nine (79) job-related service providers enquiring about the total number of employment specialists, average rate of pay and average number of new hires in a year, the cost to the job-related service providers will be an average of \$2,419 per provider to meet the ACRE training requirements for new hires and the annual four hours of training for employees.

To determine the cost of this requirement, information from the recent survey of seventy-nine (79) job-related service providers was used in the calculation. The projected average hourly cost of training is \$25.00 per hour and is derived from an average rate of pay of \$17.00 per hour plus benefits and travel requirements for the training. In addition, the cost to obtain ACRE training will be at a contracted rate of \$56.25 per employee. The training for new hires is 40 hours long and therefore the cost to job-related service providers in paid time and benefits per new hire will be approximately  $\$25 \times 40\text{hr} = \$1000 + \$56.25$  for a total of \$1056.25 per new hire. Based on the results of the survey of the job-related service providers there is a projected need to hire one hundred and fifty (150) new employment-specialists statewide. Across the state the total cost to job-related service providers to train newly hired employees will be  $(\$1056.25 \times 150 \text{ new hires}) \$158,437.50$ .

Based on an hourly cost of \$25.00, the cost of paid time and benefits per employee for ongoing training and education of four (4) hours per year will be \$100 per employee, with VR covering the cost of the training itself. Based on results from the same survey of seventy-nine (79) job-related service providers, it is anticipated that approximately three hundred and twenty-six (326) current employment specialists will require the four (4) hours of training annually. The total cost of the ongoing training and education will be \$32,638 ( $\$25/\text{hr} \times 4\text{hr} \times$

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326 employees = \$32,638).

The total estimated cost statewide to job-related service providers to meet both the ACRE training requirements and the employment-focused training will be \$191,075 (\$158,437 + \$32,638= \$191,075), or \$2,419 (\$191,075 / 79 providers = \$2,419) per provider. \$191,105 is 1.12% of the \$17,000,000 paid to job-related service providers. BENEFIT: Currently, per [IC 12-12-1-4.1](#), the job-related service providers must meet accreditation requirements by one of the organizations listed, however there are no minimum training requirements for the individuals providing direct services to VR participants. A benefit to the VR participants is that job related service providers will receive robust quality training anticipated to result in improved outcomes, job supports, and timely services. A benefit to the job-related service providers is that the staff providing these services will be more skilled with the goal of obtaining better outcomes resulting in achieving payment points for the service provider. Additionally providing better training for employment service providers could result in reducing turnover and increase capacity to serve VR participants effectively.

#### **b. Estimate of Administrative Expenses Imposed by the Rules**

The proposed rule codifies an existing registration system for individuals and businesses who provide goods or services to VR program participants that has been in place since 2019. Individuals or businesses must obtain an Indiana Bidder Registration number; register with an electronic claims payment system; and register both the with VR program and the Indiana Secretary of State. It also clarifies that services providers must obtain and maintain any license, certification, accreditation, or permit for their industry or profession as required by Indiana law. Currently there are one thousand and sixty-eight (1,068) businesses and sole proprietors registered in the Vocational Rehabilitation Claims Payment System (VR-CPS). The costs of such requirements are minimal and are not anticipated to meaningfully increase administrative expenses to individuals and businesses.

#### **c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#).**

This draft rule does not add to or increase any fees, fines or civil penalties to regulated entities or to participants in the program.

### **VII. Sources of Information**

#### **a. Independent Verifications or Studies**

Surveys of seventy-nine (79) job related service providers currently registered with VR were conducted on a quarterly basis from the last quarter of calendar year 2021 through December of 2022. These surveys informed the cost analysis with the average rate of pay and projected numbers of new employees and on-going employees that will require training.

### **VIII. Regulatory Analysis**

In conclusion, the benefits far outweigh the costs of this proposed rule. Importantly, the proposed rule will align with current federal law (29 USC 701 *et seq*), additions to the federal law with the passage of Workforce Innovation and Opportunity Act (WIOA) (29 USC 32) and implementing regulations at 34 CFR 361. The proposed rule clarifies current rules and will enable VR to implement program objectives more consistently across the state. The projected increase in costs to meet new training requirements for regulated entities, limited to job-related service providers, is \$191,075 and distributed across seventy-nine (79) providers. The increased training for job-related service providers, will ensure quality and fidelity to service delivery models resulting in improved employment outcomes for the citizens of Indiana who need VR services. Lastly, the proposed rule will have the effect of improving the availability of information by clarifying the services available to and the responsibilities of relevant parties, including the individuals who are receiving support and services from the VR program and the entities providing services to VR program participants.

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