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Vocational and Educational Services for Individuals with Disabilities Supported Employment

Regulations of the Commissioner of Education

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207 and 1004(1)

1. Section 246.3 of the Regulations of the Commissioner of Education is amended, effective April 3, 2002, as follows:

Section 246.3 Standards for Community Rehabilitation Program Personnel.

All personnel employed by a community rehabilitation program, whose duties include the provision of rehabilitation services to individuals sponsored by the New York State Education Department, Office of Vocational and Educational Services for Individuals with Disabilities (VESID), shall meet the requirements specified for these or equivalent titles in this section.

a. Definitions. As used in this section:

(1) Agency means the New York State Education Department.

(2) Bachelor's degree, master's degree or master's degree program means a degree from, or program of, a college or university accredited by a regional or national accrediting organization recognized by the United States Commissioner of Education, or the programs of which have been registered by the State Education Department.

(3) Community rehabilitation program means an organization which is operated for the purpose of providing vocational rehabilitation services to individuals with disabilities, and which provides, singly or in combination, one or more of the following services for individuals with disabilities:

(i) vocational rehabilitation services, which may include, medical, psychological, social and vocational services;

(ii) testing, fitting or training in the use of prosthetic and orthotic devices;

(iii) physical and occupational therapy;

- (iv) speech and hearing therapy;
- (v) psychological services;
- (vi) evaluation of rehabilitation potential;
- (vii) work adjustment;
- (viii) vocational training for entry-level or career advancement (in combination with other rehabilitation services);
- (ix) evaluation or control of specific disabilities;
- (x) orientation and mobility services and other adjustment services to the blind;
- (xi) supported employment services; and
- (xii) placement services.

(b) Director of vocational rehabilitation services I. (1) Individuals with this title shall be directly supervised by a staff member who fully meets the standards for Director of vocational rehabilitation II.

(2) Minimum qualifications. (i) a bachelor's degree; and

(ii) two years of professional experience in rehabilitation.

(3) Requirements upon employment. The agency may additionally require that the individual participate in specific training programs particular to the responsibility and background of the individual, and as provided by written statements prepared by the agency.

(c) Director of vocational rehabilitation services II.

(1) Minimum qualifications:

(i) a bachelor's degree and five years of progressively increasing administrative responsibility in a rehabilitation setting; or

(ii) a master's degree in rehabilitation counseling

and two years of progressively increasing administrative responsibility in a rehabilitation setting; or

(iii) a combination of education and experience which, in the judgment of the agency, is substantially equivalent to the standards of this subdivision.

(2) Requirements upon employment. The agency may additionally require that the individual participate in specific training programs particular to the responsibility and background of the individual, and as provided by written statements prepared by the agency.

(d) Employment counselor-placement specialist I. (1) Individuals with this title shall be directly supervised by an employment counselor-placement specialist II who meets the qualifications established by subdivision (e) of this section.

(2) Minimum qualifications:

(i) a bachelor's degree and one year of experience in rehabilitation placement or related fields, and enrollment in a specialized course approved by the agency; or

(ii) a bachelor's degree, enrollment in a specialized course, and enrollment in a master's degree program in vocational rehabilitation counseling or evaluation or related areas; or

(iii) a combination of education and experience which, in the judgment of the agency, is substantially equivalent to the standards of this subdivision.

(e) Employment counselor-placement specialist II. Minimum qualifications:

(1) a bachelor's degree; and

(2) three years of experience in employment counseling, employment interviewing, personnel administration or industrial relations, which included responsibility for placement; and

(3) one year of experience working with the physically or mentally disabled; or

(4) a combination of education and specialized experience which, in the judgment of the agency, is substantially equivalent to the standards of this subdivision.

(f) Evaluator I. (1) Individuals with this title shall be directly supervised by an evaluator II who meets the qualifications established in this section.

(2) Minimum qualifications:

(i) a master's degree in vocational rehabilitation counseling or evaluation or related area such as personnel, counseling and guidance, and enrollment in a short-term specialized course approved by the agency; or

(ii) a bachelor's degree, enrollment in a specialized course, and enrollment in a master's degree program in vocational rehabilitation or related areas; or

(iii) a combination of education and experience which, in the judgment of the agency, is substantially equivalent to the standards of this subdivision.

(g) Evaluator II. Minimum qualifications:

(1) a master's degree in vocational rehabilitation or related area such as personnel, counseling, guidance, and one year of experience in vocational rehabilitation or other suitable fields;

(2) a bachelor's degree and three years of appropriate experience in such areas as industrial arts, occupational therapy or rehabilitation counseling; or

(3) a combination of experience and training, such as experience as evaluator in a community rehabilitation program; or experience in industry and completion of specialized rehabilitation-related courses which, in the judgement of the agency, is substantially equivalent to the standards of this subdivision.

(h) Job Coach. Minimum qualifications for this title shall be a combination of education and specialized experience, by which the individual demonstrates experience, aptitude and ability to provide direct assistance to persons in supported employment placements and to their employer.

(i) Vocational rehabilitation counselor. Minimum qualifications:
(1) satisfaction of the requirements for eligibility to take the New York State civil service examination for vocational rehabilitation counselor; or

(2) certification as a rehabilitation counselor by the Commission on Rehabilitation Counselor Certification; or

(3) satisfaction of the requirements for eligibility to apply for such

certification.

2. Section 246.6 of the Regulations of the Commissioner of Education is amended, effective April 3, 2002, as follows:

§ 246.6 Provision of services by community rehabilitation programs.

(a) Purpose. The purpose of this section is to provide standards for the provision of services by community rehabilitation programs.

(b) Definitions. As used in this section:

(1) Agency means the New York State Education Department.

(2) Ancillary services means those aspects of an individual's program designed to support and enhance a basic evaluation or training orientation of the program. Such ancillary services include but are not necessarily limited to group, individual and family counseling; remedial education; occupational therapy; medical, psychological and other such services as may be specified by the agency.

(3) Diagnostic vocational evaluation (DVE) means a systematic appraisal and description of an individual's employment abilities, current levels of vocational performance, potential vocational capabilities for a job, interests or other traits or characteristics which relate to possible employment outcomes.

(4) Individual Plan for Employment (IPE) means a program developed pursuant to section 247.11 of this Title.

(5) Job-placement and follow-up services means a program of services, the purpose of which is to procure employment for an individual which is consistent with the goals and training program of the individual and the assurance of successful continuation of such employment.

(6) Work Adjustment Training (WAT) means a program of services which is consistent with the findings of the assessments of the individual, implements the IPE, and leads toward an employment outcome.

(7) Community rehabilitation program means an organization as defined in section 246.3(a)(3) of this Part.

(8) Special program means a short-term or part-time program of service provided at a community rehabilitation program which is

deemed necessary by the agency for an individual and not otherwise defined in this subdivision.

(9) Specialized vocational training means a program of instruction which provides information and skills that are essential for the performance of tasks involved in, or directly related to, a specific occupation.

(10) Supported employment means paid competitive work that offers ongoing support services in integrated settings for individuals with the most significant disabilities. Supported employment is intended for individuals for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of a most significant disability.

(c) Standards. Community Rehabilitation Programs shall comply with the following standards in providing services to the agency:

(1) Diagnostic vocational evaluation (DVE). (i) Content. The DVE program and subsequent report shall include, but need not be limited to, the following information relating to the individual:

(a) intellectual capacity and emotional stability;

(b) physical and psychomotor capacities;

(c) interests, attitudes and aptitudes;

(d) personal, social and work history;

(e) work skills and work tolerance;

(f) work habits, including attendance, punctuality, concentration and interpersonal skills

(g) mobility, communication, hygiene and other activities of daily living which relate directly and specifically to work or the ability to perform work;

(h) job seeking and job retention skills;

(i) potential to benefit from further services which are specifically identified;

(j) possible job objectives;

(k) recommendations for future services which may include immediate job placement or a program of WAT or other services;

(l) indication of the extent of the individual's involvement in development of the DVE program;

(m) indication of use of appropriate adaptive assessment tools and methods with individuals having sensory, communication or other functional impairments which might invalidate otherwise standardized procedures;

(n) potential job placements for the individual based upon opportunities in the labor market and upon the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; and

(o) assurance that a variety of tasks and work settings for situational assessment are available and sufficient to meet the needs of the individual; whenever appropriate, the DVE shall make use of:

(1) work samples which shall include standardization as to materials, administration and scoring, competitive norms, and reliability and validity indicators; and/or

(2) simulated job stations which must include an evaluation of the individual's performances against competitive industrial or business standards.

(ii) The agency may, at its discretion, establish special evaluation programs designed to meet those assessment needs of the individual which are not met in DVE programs.

(2) Trial Work Experience (TWE) - prior to any determination by the agency that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability, the agency must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination. Trial work experience may include supported employment, on-the-job training and other experiences using realistic work settings. It must include the following:

(a) adherence to the written plan for trial work.

(b) assessment of the individual's capacity to perform in work situations in the most integrated setting possible consistent with informed choice.

(c) trial work experiences.

(3) Work Adjustment Training (WAT). (i) Content. The WAT program shall include components for the satisfactory development of the following individual capacities to enable that individual to engage in employment:

- (a) physical capacity, including general work stamina;
 - (b) psychomotor skills, including eye-hand coordination in the use of tools and equipment;
 - (c) interpersonal and communication skills;
 - (d) work habits;
 - (e) job seeking and job retention skills;
 - (f) appropriate dress and grooming;
 - (g) production skills;
 - (h) knowledge and awareness of time and attendance rules, payroll deductions and safety procedures;
 - (i) span of attention and concentration;
 - (j) travel skills;
 - (k) cognitive remediation;
 - (l) specific occupational skills;
 - (m) employment skills;
 - (n) other work-related skills, such as counting and measuring; and
 - (o) direct assistance in securing and retaining employment, including job searching, placement and follow-up services.
- (ii) Community rehabilitation programs shall submit individualized reports concerning the individual's WAT program. Such reports shall indicate the type of services provided and the individual's progress toward the employment outcome specified in the IPE, shall be in a format approved by the agency, and shall be submitted at intervals designated by the agency.

(iii) The agency may, at its discretion, require the provision of such ancillary services as it deems appropriate to individual needs and circumstances.

(4) Job-placement and follow-up services. (i) Content. Job-placement and follow-up services shall include the following minimum components:

(a) maintenance of active contact with employers to develop and identify job opportunities for individuals with disabilities;

(b) provision of employment and employment related counseling for placement candidates; such counseling shall include all information relevant to specific job openings such as job duties, skills needed, hours, wages, transportation, benefits advisement, and working conditions;

(c) on-site consultation with the potential employers to develop and identify job opportunities for individuals with disabilities; and

(d) maintenance of contact with employer and the individual for a sufficient length of time, based upon that individual's needs, to assure adequate job adjustment and retention.

(ii) Job-placement and follow-up services shall be provided in a manner consistent with the following standards:

(a) Job-placement may be made at the conclusion of the DVE process, or at any point during the WAT process.

(b) The planned placement shall be consistent with the employment outcome of the IPE.

(c) Placement of an individual in a specific occupation and at a specific job site shall require full involvement of and prior approval by the agency.

(d) The community rehabilitation program may close a case as successfully employed only after the individual has remained in continuous employment for a minimum of 90 days.

(e) Community rehabilitation programs shall submit to the agency placement and follow-up reports in a format and at intervals specified by the agency.

(5) Specialized vocational training. (i) Content.

(a) The specialized vocational training program shall be operated

in conjunction with a specific curriculum of training services which has received the prior approval of the agency. Such program shall be individualized and shall follow a reporting format specified by the agency.

(b) Training shall lead to placement in a specific job category.

(c) The specialized vocational training program shall include regular contacts with potential employers in the community and shall make use of transitional employment, consisting of short-term progressive on-the-job experiences, and on-site training where appropriate.

(d) Prior to an individual's entry into a specialized vocational training program, the suitability of such training for that individual shall be demonstrated by agency assessments and the findings and recommendations contained in the DVE report, IPE, Trial Work Experience or WAT progress reports.

(e) The provisions of paragraphs (3) and (4) of this subdivision applicable to WAT and to job-placement and follow-up shall also apply to specialized vocational training.

(6) Special programs. Where existing programs do not meet individual needs, special programs may be established.

(i) Content. Such programs shall be conducted in accordance with the provisions of this paragraph.

(a) Prior to entrance of individuals into special programs, it shall be demonstrated, based on assessment by the agency counselor, supported by findings and recommendations, that involvement in the program is warranted and is consistent with the IPE.

(b) Reporting shall follow schedules and formats prescribed by the agency.

(c) The agency may impose such additional requirements as are necessary to assure the completion of the goals of each special program.

(7) Supported Employment Services. (i) Community rehabilitation programs will have the following responsibilities:

(a) actively involve consumers and their designated representatives in assessment, planning, and decision-making throughout the service delivery process;

(b) consider both the individual's and employer's satisfaction with the nature and frequency of the program's services and with the job placement itself;

(c) through a consumer centered decision making process, pursue the goals detailed in the IPE by using supported employment resources to the best advantage of the individual;

(d) report in a timely fashion as required to the agency on programmatic and fiscal details; and

(e) deliver supported employment services in accordance with Federal and State standards and any additional contractual obligations unique to the funding sources.

(ii) Eligibility for Supported Employment Services. Supported Employment services may be provided to any individual who is determined eligible for vocational rehabilitation services and who meets the criteria stated below as documented in the agency case record:

(a) has a most significant disability;

(b) has not traditionally participated in competitive employment or whose employment has been interrupted or intermittent as a result of a significant disability;

(c) has had a comprehensive assessment of rehabilitation needs which identifies Supported Employment as the appropriate vocational objective and has:

1. the ability to engage in a vocational process leading to supported employment;
2. a need for ongoing support services in order to perform and sustain competitive work;
3. the ability to work in a supported employment setting; and
4. met the criteria for extended service funding.

(iii) Required features for agency supported employment programs. All supported employment programs funded by agency resources are required to comply with applicable regulations and guidelines, and to have the following characteristics, unless differences are specifically described in the approved agency contract.

(a) Programs must be explicitly designed to serve those people with the most significant disabilities who, by the nature of their vocational impairments, require the availability of (a) intervention and advocacy on their behalf with employers, coworkers, and families to ease their integration into the workforce, and (b) ongoing support services over an extended period of time to maintain their employment.

(b) The program must include the provision of assistance necessary to maintain the person in employment, with no end date or time limit placed on this assistance.

(c) Persons with significant disabilities must be integrated into a work force of persons without disabilities.

(d) Programs offering supported employment provide intensive and extended services including, but not limited to: community-based assessment, job development and placement, job site training, advocacy, ongoing and related necessary supports.

(1) Intensive services are provided to the individual both

on and off the job site as frequently as necessary to teach performance of the duties as required by the employer and to foster social integration skills.

(2) Supported employment requires extended services beyond

the time limited resource capability of the vocational rehabilitation program.

(3) Community rehabilitation programs will provide information regarding the funding source for each individual's extended services program.

(8) Standards for all community rehabilitation programs. (i) The community rehabilitation program shall comply with all applicable regulations of the Commissioner of Education and all applicable Federal, State and local laws.

(ii) All programs designed to serve agency sponsored individuals shall be established only with prior agency approval.

(iii) Individual records. The community rehabilitation program shall maintain individual case records and reporting systems necessary to meet all applicable professional, administrative and legal requirements and the requirements of this subparagraph.

(a) There shall be a single case record for each individual entering any program in the community rehabilitation program.

(b) The case record shall contain case identification, referral, history and diagnostic data.

(c) The case record shall provide sufficient information to allow the agency to assess the progress and current status of the individual in the community rehabilitation program, and shall indicate the involvement of that individual in developing his or her rehabilitation program.

(iv) Financial records. The community rehabilitation program shall conduct its financial operations in compliance with all legal requirements and shall operate under an annual budget approved by its governing body.

(a) The community rehabilitation program's financial statement shall be prepared annually no later than 90 days after the close of the program's fiscal year. Such financial statement shall be examined and certified by an independent licensed accountant who is qualified to express an opinion on the accuracy and fairness of the statement. The governing body of the program shall review and act upon the recommendation of such accountant, and the statement shall be made available to the agency, upon request, no later than 30 days after the completion of the statement.

(b) Generally accepted accounting principles shall be employed and organized so that charges for services or products may be based upon their actual cost.

(1) Where fees for service are charged to other than individuals sponsored by the agency, the community rehabilitation program shall furnish to the agency a list of such rates charged to other agencies or to private purchasers of services. The rate charged the agency shall not exceed the lowest rate charged to such other agencies or private purchasers of services.

(2) The community rehabilitation program shall maintain

financial records which enable the agency to determine the proportion of program income used for direct services and the proportion used for indirect or administrative costs.

(3) The community rehabilitation program shall maintain a separate account for each special project.

(4) The community rehabilitation program shall maintain financial records which allow the agency to identify costs and revenue for each program or service (DVE, WAT, and/or any special program or project).

(v) Accessibility and nondiscrimination. Each community rehabilitation program shall comply with the accessibility and nondiscrimination standards set forth in federal and state law. The agency may deny funding to and refuse to contract with any community rehabilitation program which fails to comply with such provisions.

(vi) Safety.

(a) The community rehabilitation program shall assure that every individual served receives services in an environment that is free of recognized health and safety hazards.

(b) With respect to substances which have been identified by federal or state agencies to be toxic or hazardous, but for which no level of safe exposure to such substances has been determined, the program shall not permit the use or storage of such substances within its premises.

(c) In situations in which a community rehabilitation program uses locations, other than those of the program, for job trials, for transitional employment, or for any other purpose, it shall assure that such location is in compliance with the provisions of this subparagraph.

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