

§ 363.5

34 CFR Ch. III (7–1–13 Edition)

§ 363.5 What regulations apply?

The following regulations apply to the State Supported Employment Services Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 363.

(c) The following regulations in 34 CFR part 361 (The State Vocational Rehabilitation Services Program): §§ 361.31; 361.32; 361.33; 361.34; 361.35; 361.39; 361.40; 361.41; 361.42; 361.47(a); 361.48; and 361.49.

NOTE: Many of the regulatory provisions cross-referenced in § 363.5(c) are affected by statutory changes made by the Rehabilitation Act Amendments of 1992. If these provisions conflict with statutory language, they are superseded by the statutory language. Program regulations for part 361 are being amended to implement statutory changes. When final regulations for part 361 are published, these cross-references will be corrected, if necessary.

(Authority: 29 U.S.C. 795j and 711(c))

§ 363.6 What definitions apply?

(a) *Definitions in 34 CFR part 361.* The following terms used in this part are defined in 34 CFR 369.4(b):

Act
Designated State unit
Individual with disabilities
Individual with severe disabilities
State plan

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Fiscal Year
Nonprofit
Private Secretary
State

(c) *Other definitions.* The following definitions also apply to this part:

(1) *Supported employment* means—

(i) Competitive employment in an integrated setting with ongoing support services for individuals with the most severe disabilities—

(A) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services from the designated State unit and extended services after transition in order to perform this work; or

(ii) Transitional employment for individuals with the most severe disabilities due to mental illness.

(2) As used in the definition of “Supported employment”—

(i) *Competitive employment* means work—

(A) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

(B) For which an individual is compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

(ii) *Integrated setting* means a setting typically found in the community in which an individual with the most severe disabilities interacts with non-disabled individuals, other than non-disabled individuals who are providing services to that individual, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(iii) *Supported employment services* means on-going support services provided by the designated State unit with funds under this part—

(A) For a period not to exceed 18 months, unless under special circumstances a longer period to achieve

job stabilization has been jointly agreed to by the individual and the rehabilitation counselor and established in the individualized written rehabilitation program, before an individual with the most severe disabilities makes the transition to extended services; and

(B) As discrete post-employment services following transition in accordance with §363.4(c)(3);

(iv) *Extended services* means on-going support services and other appropriate services provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part, part 381, part 376, or part 380, after an individual with the most severe disabilities has made the transition from State vocational rehabilitation agency support; and

(v) *Transitional employment* means a series of temporary job placements in competitive work in an integrated work setting with on-going support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of on-going support services must include continuing sequential job placements until job permanency is achieved.

(3) *On-going support services* means services that are—

(i) Needed to support and maintain an individual with the most severe disabilities in supported employment;

(ii) Based on a determination by the designated State unit of the individual's needs as specified in an individualized written rehabilitation program; and

(iii) Furnished by the designated State unit from the time of job placement until transition to extended services, except as provided in §363.4(c)(3) and, following transition, by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment. On-going support services must include, at a minimum, twice-monthly monitoring at the work site of each individual in supported employment to assess employment stability, unless

under special circumstances, especially at the request of the individual, the individualized written rehabilitation program provides for off-site monitoring, and, based upon that assessment, the coordination or provision of specific services at or away from the work site, that are needed to maintain employment stability. If off-site monitoring is determined to be appropriate, it must, at a minimum, consist of two meetings with the individual and one contact with the employer each month. On-going support services consist of—

(A) Any particularized assessment needed to supplement the comprehensive assessment of rehabilitation needs;

(B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

(C) Job development and placement;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of rehabilitation services described in 34 CFR part 361; and

(I) Any service similar to the foregoing services.

(Authority: 29 U.S.C. 706(18), 711(c), and 795j [59 FR 8331, Feb. 18, 1993, as amended at 62 FR 6363, Feb. 11, 1997])

Subpart B—How Does a State Apply for a Grant?

§ 363.10 What documents must a State submit to receive a grant?

To receive a grant under this part, a State must submit to the Secretary, as part of the State plan under 34 CFR part 361, a State plan supplement that meets the requirements of §363.11.

(Authority: 29 U.S.C. 795n)