

CHAPTER 89 - VOCATIONAL REHABILITATION

SUBCHAPTER 89A - GENERAL INFORMATION

SECTION .0100 - INFORMATION REGARDING RULES

10A NCAC 89A .0101 RULES IN THIS CHAPTER

The rules in this Chapter govern the provision of services by the Division of Vocational Rehabilitation Services of the Department of Health and Human Services under the Rehabilitation Act of 1973, Public Law 93-112, as amended; G.S. 143-545, 143-546, and 143-547; G.S. 168-1 through 168-23; and G.S. 168A-1 through 168A-12.

History Note: Authority G.S. 143-545; 143-546; 143-547; 143B-10; Eff. February 1, 1976; Amended Eff. April 1, 1990; April 1, 1988; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89A .0102 DEFINITIONS

As used in this Chapter, the following terms have the meaning specified:

- (1) "Acceptance for services" means that the priority category to which an eligible individual is assigned is being served by the Division.
- (2) "Application date" means the date that a client completes and signs an application for services with the Division.
- (3) "Appropriate mode of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated including but not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.
- (4) "Designated State Agency" or "State Agency" means the sole state agency designated per federal regulations to administer or supervise the local administration of the State Plan for Vocational Rehabilitation Services. In North Carolina, it is the Department of Health and Human Services.
- (5) "Client" means an individual who has applied for or is receiving services from the Division.
- (6) "Designated State Unit" means the state vocational rehabilitation division that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the State agency.
- (7) "Division" means the Division of Vocational Rehabilitation Services of the Department of Health and Human Services.
- (8) "Division Director" or "Director" means the Director of the Division of Vocational Rehabilitation Services.
- (9) "Division's Fixed Rate" means the rate that the Division will pay for clients to receive training services.
 - (a) The Division's fixed rate for post-secondary, graduate, professional and summer school is determined by calculating the median rate for tuition at the 16 campus public University system as approved by the North Carolina General Assembly in October 2001;
 - (b) The Division's fixed rate for the community college system is the approved rate for the 58 community college system as approved by the North Carolina General Assembly in October 2001.
- (10) "Division's Modification Review Committee" means a committee of Division staff from the State Office appointed by the Division Director and chaired by the Chief of Operations to review for approval or disapproval:
 - (a) amounts for residence or job site modifications that exceed standard amounts specified in 10A NCAC 89C .0316; and
 - (b) purchase of vehicles as set forth in 10A NCAC 89C .0316.
- (11) "Eligible individual" means an applicant for vocational rehabilitation services who meets the eligibility requirements under 34 C.F.R 361.42(a).

- (12) "Extended period of time" means that the individual will require at least nine months to complete the services on the Individualized Plan for Employment (IPE) or will require one of the following services permanently in order to accomplish the individual's job choice and maintain employment:
- (a) Personal Assistance Services;
 - (b) Rehabilitation Technology;
 - (c) Medical equipment limited to wheelchairs, prosthesis, hearing aids and orthotics prescribed due to seriously limited functional capacity areas; or
 - (d) Extended Services.
- The required minimum of nine months does not include the standard amount of time required to complete a post-secondary training curriculum, but does include extra time required to complete the training curriculum due to disability related reasons.
- (13) "Extended Services" means ongoing support services that are needed to maintain an individual with a most significant disability in supported employment. These services are provided by a State agency, a private nonprofit organization, employer, or other resource from funds other than funds received by the designated State unit to provide supported employment training. Extended Services begin after the individual has made the transition from support provided by the designated State unit. Extended Services also includes services required by individuals with a most significant disability who received work adjustment and job coaching where a supported employment vendor was not available.
- (14) "Functional Capacity Areas" means the areas of ability which are impacted by an individual's disability and used to determine serious limitations to employment for an eligible individual with a disability. For the purposes of this Section:
- (a) "Communication" means the ability to use, give and receive information.
 - (b) "Interpersonal skills" means the ability to establish and maintain interactions with others.
 - (c) "Mobility" means the ability to move from place to place.
 - (d) "Self-care" means the ability to plan and perform activities of daily living.
 - (e) "Self direction" means the ability to plan, initiate, organize, or carry out goal-directed activities or solve problems related to self-care, socialization, and working independently.
 - (f) "Work skills" means the ability to learn and perform work functions.
 - (g) "Work Tolerance" means the ability to sustain the required level of work function.
- (15) "Individual with a "significant disability" has the meaning specified in P.L. 102-569, Section 7(15) which is incorporated by reference.
- (16) "Individual with a most significant disability" means an individual with a significant disability who meets all aspects of the definition for significant disability, and whose impairment seriously limits three or more functional capacity areas in terms of an employment outcome.
- (17) "Individualized Plan for Employment" (IPE) means a written document prepared on forms provided by the designated state unit for each eligible individual accepted for services which outlines what is required to achieve an employment outcome.
- (18) "Intercurrent illness" means an acute medical condition that arises during the rehabilitation process and constitutes a barrier to the achievement of an employment outcome.
- (19) "Multiple services" means two or more primary services.
- (20) "Optional fees" are fees charged to curriculum and continuing education students for items not covered by tuition and registration fees. Optional fees include:
- (a) Specific fees. Fees charged to students for items required for individual courses that are considered to be in addition to normal supplies and materials the college provides for students such as tools, uniforms, insurance or certification fees.
 - (b) Student activity fee. A fee charged to students to support student activities. The student activity fee shall not exceed the maximum set by the State Board of Community Colleges effective for the fall 2001 semester.
 - (c) Computer use and technology fee. A fee charged to students to support the procurement, operations and repair of computers and other institutional technology including supplies and materials that accompany use of the technology. The fee shall not exceed the maximum set by the State Board of Community Colleges effective for the fall 2001 semester.
 - (d) Parking fee. A fee charged to a student for use of the college's parking facilities.
- (21) "Order of Selection" means the priority system under which the Division provides vocational rehabilitation services to eligible individuals with disabilities when sufficient resources are not available for the Division to serve all eligible individuals with disabilities.

- (22) "Order of Selection – Established" means that the order of selection priority system has been approved by the Rehabilitation Services Administration and is a part of the Division's State Plan.
- (23) "Order of Selection – Implemented" means that the Division Director has determined that the Division does not have sufficient resources to provide services to all eligible individuals. During implementation all eligible individuals within a priority category may not receive services.
- (24) "Permanent disability" means any physical or mental condition which is expected to be lasting regardless of medical or psychological intervention, and which is highly unlikely to go into full or permanent remission.
- (25) "Permanent functional limitation" means restrictions in activity or function related to employment imposed by the disability that:
 - (a) is not likely to be corrected through surgical intervention or medical treatment; and
 - (b) will require on-going treatment because impediments related to the disability will not be removed through the provision of physical and mental restoration services.
- (26) "Personal Assistance Services" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.
- (27) "Primary Services" means any one of the following services:
 - (a) Physical and mental restoration services: Diagnosis and treatment services of impairments excluding treatment of intercurrent illnesses.
 - (b) Counseling and guidance: Counseling and guidance that addresses separate and specific objectives with documentation of regular appointments and progress towards objectives distinct from the general counseling relationship that exists between the rehabilitation counselor and the eligible individual throughout the rehabilitation process.
 - (c) Vocational and other training: Personal and vocational adjustment training, post-secondary, and on-the-job training.
 - (d) Job Related Services: Job search, placement assistance, job retention services, follow-up services, and follow-along services.
 - (e) Rehabilitation Technology: Rehabilitation engineering, assistive technology devices, and assistive technology services.
- (28) "Priority category" means the order in which eligible individuals with disabilities will be served. These categories are based on refinement of the three criteria in the definition of "individual with a significant disability".
- (29) "Post-employment services" means one or more services that are provided subsequent to the achievement of an employment outcome that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's abilities, capabilities, and interests.
- (30) "Rehabilitation technology" means services that systematically apply technologies, engineering methodologies, or scientific principles to meet the need of and address the barriers confronted by an eligible individual with a disability. Rehabilitation technology includes telecommunication, sensory, and other technological aids and devices.
- (31) "Seriously limits" means that due to a physical or mental impairment, one or more of an eligible individual's functional capacity areas is restricted to the degree that the individual requires accommodations not routinely made for other individuals or interventions that cannot be easily achieved, and that will be required permanently in order for the individual to obtain and maintain successful employment.
- (32) "State Plan" means the Plan for vocational rehabilitation services submitted by the Division and approved by the Rehabilitation Services Administration.
- (33) "Transferable work skills" means skills, educational level, talents, abilities, and knowledge that will allow employment consistent with the individual's strengths, resources, priorities, concerns, capabilities, interest and informed choice.
- (34) "Waiting list" means a list of eligible individuals that establishes the order in which these individuals will be provided services once resources are available if the Division has implemented an Order of Selection. Individuals are placed on the list after eligibility for services has been determined by their priority category and date of application.

The section of the Public Law incorporated by reference in this Rule shall automatically include any later amendments thereto as allowed by G.S. 150B-21.6. Copies of the section of the Public Law so incorporated may be obtained at no cost from the Division.

History Note: Authority G.S. 143-545.1; 150B-21.6; P.L. 102-569, s. 7(15); s. 101(a)(5)(A);
Eff. February 1, 1976;
Amended Eff. February 1, 1996; October 1, 1994; April 1, 1988;
Temporary Amendment Eff. May 1, 2002; July 3, 2001;
Amended Eff. August 1, 2002;
Temporary Amendment Eff. January 26, 2003;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.