

FEDERAL FISCAL YEAR 2016

**Technical Assistance Report of
the On-Site Visit to the
Nevada Rehabilitation Division**



U.S. DEPARTMENT OF EDUCATION

**OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES**

REHABILITATION SERVICES ADMINISTRATION

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I. Introduction

A. The Federal Mandate

Section 107(b) of the Rehabilitation Act of 1973 (Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA), requires the Commissioner of the Rehabilitation Services Administration (RSA) to provide technical assistance (TA) to State vocational rehabilitation (VR) agencies to improve the quality of VR services provided to, and promote the achievement of high quality employment outcomes by, individuals with disabilities. To fulfill, in part, this requirement, RSA conducted five TA visits to five different VR agencies across the country in the final quarter of Federal fiscal year (FFY) 2016. These visits allowed RSA to review the progress of VR agencies toward compliance with new requirements under the Act, as amended by WIOA, and to assist States in complying with those requirements.

This report summarizes the activities and outcomes of the TA visit to the Nevada Rehabilitation Division (NRD). The report includes a summary of pre on-site activities, TA provided by the RSA TA team during the on-site visit, and the identification of the VR agency's on-going TA needs and possible resources to meet those needs.

B. Description of the Technical Assistance Visit

1. General

Section 506(d) of WIOA makes clear that the amendments to the Act took effect on the date of enactment (July 22, 2014) unless WIOA specified otherwise. As such, VR agencies must ensure that their policies and procedures incorporate and implement all new requirements under the Act, as amended by WIOA. To facilitate this process, and to support this undertaking by its grantees, a TA team from the State Monitoring and Program Improvement Division (SMPID) conducted a TA visit to NRD from September 13, 2016 to September 15, 2016.

The specific programs covered during this TA visit included:

- The VR program, authorized under title I of the Act; and
- The Supported Employment program, authorized under title VI of the Act.

2. Focus Areas of the TA Visit

Prior to the conduct of the TA visits, RSA issued a Technical Assistance Guide that described the three focus areas that would constitute the primary work of the TA teams while onsite. The three focus areas included:

- Competitive integrated employment;
- Pre-employment transition services for students with disabilities, including the requirement for a State to reserve and expend at least 15 percent of the VR allotment to provide, or arrange for the provision of, pre-employment transition services; and

- Supported employment for individuals with the most significant disabilities, including the requirement for a State to reserve and expend 50 percent of its Supported Employment program allotment to provide supported employment services, including extended services, to youth with the most significant disabilities.

A summary of the TA provided under each focus area is discussed in greater detail in the sections that follow in this report. As a result of the TA visit, the RSA TA team, in collaboration with NRD, identified:

- Policies and procedures that need to be revised for NRD to comply with requirements of the Act, as amended by WIOA, and its implementing regulations; and
- The need and the resources for further TA.

Section VI of this report summarizes the identified policies and procedures in need of further revision and any outstanding TA needs along with possible resources to meet those needs.

II. Overview of the Technical Assistance Visit Process

A. Pre On-Site Activities

Prior to the on-site visit, the RSA TA team conducted a variety of preparatory activities. RSA:

- conducted teleconferences with NRD’s administrative staff on August 16th and August 30th;
- reviewed data and fiscal tables relevant to the focus areas identified for the TA visit;
- requested, obtained and reviewed additional data provided by NRD prior to the on-site visit, including data for the first three quarters of FY 2016;
- reviewed all third-party cooperative arrangements (TPCAs) and memoranda of understanding pertaining to the identified focus areas;
- reviewed NRD’s fee schedule and other fiscal-related policies;
- requested and reviewed the agency’s applicable policies and procedures pertaining to the focus areas; and
- worked in conjunction with NRD to develop the on-site agenda and identified appropriate staff for each session.

B. Participants

The RSA TA team was led by Jim Doyle and Beth Settle, VR Unit; Jason Hunter, TA Unit; Craig McManus, Fiscal Unit; and Rimal Desai, Data Unit. Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information.

During the on-site TA visit, the RSA TA team met with the following individuals and organizations:

- Administrator, NRD
- Deputy Administrator of Programs

- Deputy Administrator of Operations
- Vocational Rehabilitation Chief
- District Managers
- Vocational Rehabilitation Supervisors
- Transition Supervisors
- Transition Coordinator
- Chief Financial Officer
- Quality Assurance Specialist Staff
- Financial Analyst Staff
- Business Analyst Staff

III. Competitive Integrated Employment

A. General

The Act, as amended by WIOA, emphasizes the achievement of competitive integrated employment. The foundation of the VR program is the principle that individuals with disabilities, including those with the most significant disabilities, are capable of achieving high-quality, competitive integrated employment when provided the necessary services and supports. To increase the employment of individuals with disabilities in the competitive integrated labor market, the workforce system must provide individuals with disabilities opportunities to participate in job-driven training and to pursue high-quality employment outcomes. To reinforce this principle, the Act, as amended by WIOA, contains several critical changes that form the basis for this focus area. In addition, the VR program regulations, which were published at 81 FR 55629 on August 19, 2016, and which became effective on September 19, 2016, contain further critical changes that affect this focus area. The changes related to competitive integrated employment covered by the TA teams included:

- The new definition of “competitive integrated employment” in section 7(5) of the Act and 34 CFR 361.5(c)(9) of the implementing regulations that combines, clarifies, and enhances the two separate definitions of “competitive employment” and “integrated setting” for the purpose of employment under the VR program in prior §361.5(b)(11) and (b)(33)(ii), respectively;
- The revision of the definition of “employment outcome” in §361.5(c)(15) that specifically identifies customized employment as an employment outcome under the VR program and requires that all employment outcomes achieved through the VR program be in competitive integrated employment or supported employment, thereby eliminating uncompensated outcomes, such as homemakers and unpaid family workers, from the scope of the definition for purposes of the VR program; and
- The requirement in section 102(b)(4)(A) of the Act and §361.46(a) of the implementing regulations that the individualized plan for employment (IPE) include a specific employment goal consistent with the general goal of competitive integrated employment.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to competitive integrated employment:

1. Definition and General Requirements of Competitive Integrated Employment:

NRD requested clarification on the appropriate method to determine if an individual is working in a competitive integrated employment setting, as defined at section 7(5) of the Act and §361.5(c)(9) of the implementing regulations. In particular, NRD requested assistance identifying the necessary criteria for an individual to be considered working in an integrated setting. NRD specifically requested that the TA team clarify how staff should determine or identify if an employment setting is typically found in the community, as described at §361.5(c)(9)(ii) of the VR regulations, including enclaves and mobile work crews. In addition, the agency requested clarification regarding the factors that must be considered in order to determine if a work setting meets the requirements of an integrated setting when evaluating the appropriate interaction an employee has with non-disabled employees while performing the duties of the job, in accordance with §361.5(c)(9)(ii)(B).

Furthermore, NRD requested assistance regarding the process used by the VR counselor to determine if the employment outcome earnings are comparable to the customary wages paid by the employer for non-disabled individuals working in similar positions, in accordance with §361.5(c)(9)(i)(B) of the VR regulations. Similarly, NRD requested further guidance regarding the determination that the employment of the individual allows for the same opportunities for advancement as individuals without disabilities working in a comparable position, in accordance with §361.5(c)(9)(iii).

TA Provided:

- During the TA visit, RSA provided guidance to NRD on the requirements that must be met for competitive integrated employment, including competitive earnings (§361.5(c)(9)(i)), integrated location (§361.5(c)(9)(ii)), and the opportunity for advancement defined at §361.5(c)(9)(iii).
- RSA facilitated a discussion on the factors that VR agencies should apply, on a case-by-case basis, when determining whether an employment setting, including enclaves and mobile work crews, meet the requirements for an integrated setting. RSA indicated that the VR counselor must consider multiple aspects of the employment setting when determining the following:
 - the level of interaction with individuals with and without disabilities during the course of performing the duties of the job. RSA clarified that the level of interaction was not based on a ratio of non-disabled employees to disabled employees or on interaction with customers; rather, the VR counselor should consider the level and quality of interaction with disabled and non-disabled employees within the work unit and the entire

worksite, as appropriate to the work performed, in accordance with §§361.5(c)(9)(ii)(B) and 361.5(c)(32)(ii)(B) of the VR regulations.

- how a “work unit” should be defined for the purposes of determining if the employment is in an integrated work setting. RSA clarified that the work unit would be dependent upon the organizational structure of the employer as it relates to the work being performed by the individual and may include a group of employees working together or employees performing a specific task.
- whether the employment or position for which the individual is hired is typically found in the community and competitive labor market, in accordance with §361.5(c)(9)(ii)(A). RSA clarified that employment established for the purpose of employing individuals with disabilities, regardless of the wage, would not be considered employment typically found in the competitive labor market and would consequently not meet this criterion.
- RSA clarified that the method used to determine whether an individual is being compensated at a level comparable to individuals without disabilities working in a similar position should be based on the VR counselor’s knowledge of the prevailing wage for work being performed. It should also be based on the individual’s level of training, skills and experience, in accordance with §361.5(c)(9)(i)(B).

2. The Definition and Application of Customized Employment

Section 7(11) of the Act, as amended by WIOA, and §361.5(c)(15) of the implementing regulations add customized employment to the definition of “employment outcome.” “Customized employment” is a form of competitive integrated employment designed to meet the needs of individuals with significant disabilities and employers through flexible strategies.

The TA team reviewed NRD’s policies and procedures related to customized employment. NRD limited customized employment under the agency’s policies to the supported employment program. Specifically, the agency defined customized employment as “a type of supported competitive integrated employment, for an individual with a most significant disability, that is based on the individualized determination of the strengths, needs and interests of the individual and is designed to meet the specific abilities of the individual and the business needs of the employer and is carried out through flexible strategies...”

RSA reviewed data pertaining to the number of eligible individuals who received customized employment services and obtained competitive integrated employment during FFY 2015. According to the RSA-911 case service report, out of the 886 individuals who obtained employment in an integrated setting, NRD did not report closing the case service records of any individuals who received customized employment services. The TA team also requested NRD provide data for the first three quarters of FFY 2016 for all services provided, including customized employment. NRD was able to provide the TA

team multiple spreadsheets using data pulled from the agency's case management system detailing each service provided or purchased by the agency, sorted by the individual's age at application and grouped using the FFY in which the individual's service record was closed. These data include data for FFY 2013 through the first three quarters of FFY 2016. According to this information, for FFY 2016, NRD provided customized employment for two individuals using title VI funds and two individuals using title I funds. The outcome status at closure was not included with these tables.

TA Provided:

- RSA reviewed and discussed the definition of customized employment as defined at section 7(11) of the Act and §361.5(c)(11) of the implementing regulations.
- RSA clarified that customized employment is not limited to individuals pursuing a supported employment outcome, but may be included as an option for a supported employment or VR outcome.
- RSA discussed the additional limitations NRD has imposed on the requirements that an individual must be determined most significantly disabled. RSA requested that NRD revise its current definition of customized employment to indicate that individuals must have a significant disability consistent with section 7(11) of the Act and §361.5(c)(11) of the implementing regulations.

3. Employment Outcomes-Uncompensated Outcomes

WIOA amended the Act by emphasizing the achievement of competitive integrated employment by individuals with disabilities, including individuals with the most significant disabilities. The Act, as amended by WIOA, refers extensively to competitive integrated employment in a number of instances, including in the statement of the purpose for the VR program, as well as in requirements for developing IPEs, providing services to students and youth with disabilities, and the limitations on the payment of subminimum wages in section 511 of the Act, as added by WIOA. In particular, section 102(b)(4)(A) of the Act, as amended by WIOA, and §361.46(a) of the implementing regulations require that the specific employment goal identified in the IPE be consistent with the general goal of competitive integrated employment.

Competitive integrated employment requires the payment of wages at or above the applicable Federal, State, or local minimum wage. Neither homemakers nor unpaid family workers earn a wage. Therefore, individuals achieving uncompensated outcomes, such as homemakers and unpaid family workers, cannot be determined to have achieved an employment outcome in competitive integrated employment.

Prior to the on-site visit with NRD, RSA reviewed all employment outcomes reported by the agency for FFY 2015 on its RSA-911 report. According to this report, of the 886 individuals who successfully obtained an employment outcome in an integrated setting, the service records of 838 individuals were closed as achieving competitive integrated employment, and no individuals' service records were closed as achieving uncompensated employment, such as homemaker or unpaid family worker.

During the on-site visit, RSA reviewed NRD's policies and procedures, and discussed the new definition of an employment outcome at §361.5(c)(15) as it applies to the use of uncompensated employment. The administrative staff for NRD confirmed that the agency had not allowed uncompensated employment outcomes for more than five years.

TA provided:

- RSA provided an overview of the requirements under section 7(11) of the Act and §361.5(c)(15) of the implementing regulations as they relate to the discontinuation of uncompensated outcomes. RSA also discussed the requirement for VR agencies to close all individuals with an active IPE with the goal of homemaker or unpaid family worker no later than June 30, 2017, unless specific cause requires an extension, which must be determined on a case-by-case basis. Finally, the TA team reminded NRD of the requirement that no new IPEs can be developed with an uncompensated employment outcome following the implementation of the final regulations on September 19, 2016.
- RSA discussed NRD's policies and procedures, with the revision of various sections to reflect the requirements of WIOA and the implementing regulations. Prior to going onsite, the TA team reviewed NRD's policies related to employment outcomes. RSA recommended that NRD update its policies and procedures to ensure that VR counselors do not develop IPEs with a vocational goal of uncompensated employment, but rather work to place individuals in competitive integrated employment. It was also recommended that the agency develop the necessary policies and procedures to assist individuals who apply for VR services in order to pursue uncompensated employment so that staff can provide the appropriate information and referral services in accordance with §361.37(b).

IV. Pre-Employment Transition Services

A. General

The Act, as amended by WIOA, places heightened emphasis on the provision of services, including pre-employment transition services, to youth and students with disabilities, respectively, to ensure they have meaningful opportunities to receive training and other services necessary to achieve employment outcomes in competitive integrated employment. The Act and its final regulations in 34 CFR part 361 contain several new terms and requirements related to pre-employment transition services.

Pre-employment transition services, defined in section 7(30) of the Act, as amended by WIOA, and §361.5(c)(42) of the final implementing regulations, include both required activities and authorized activities specified in section 113 of the Act and the final regulations in §361.48(a). There are five required activities (most beneficial to a student in the early stages of employment exploration) that are provided directly to eligible or potentially eligible students with disabilities. There are nine authorized activities described in §361.48(a)(3) that VR agencies may implement to improve the transition of students with disabilities from school to postsecondary education or an employment outcome.

Pre-employment transition services also include pre-employment transition coordination activities. Pre-employment transition coordination activities, described in §361.48(a)(4), include activities that each local VR agency office must engage in to coordinate and facilitate the provision of pre-employment transition services to students with disabilities.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to pre-employment transition services:

1. Tracking of Students with Disabilities receiving Pre-Employment Transition Services

During the on-site visit, RSA discussed and defined pre-employment transition services, including the required, authorized, and pre-employment transition coordination activities defined at section 113(a)-(d) of the Act, and §361.48(a)(1)-(4) of the implementing regulations. NRD provides pre-employment transition services to students with disabilities between the ages of 16 and 21 years old, or until the student turns 22 years old. Nevada State law, at Nevada Administrative Code 388.133, allows for transition services under the Individuals with Disabilities Education Act (IDEA) to begin as early as 14 years old if needed. Therefore, pre-employment transition services in Nevada can begin as early as 14 years old.

NRD provided RSA several different forms of documentation to demonstrate that students with disabilities are currently receiving or previously received pre-employment transition services. NRD provided RSA with several spreadsheets that contained the individual's unique identification number, the type of service received, date of service authorization and amount paid, in addition to other details. This information was also categorized with the individual's unique identification number, the student's age at application, and the date of application. NRD also provided RSA multiple lists of attendance sheets for six different providers, which included the name of the students and the dates the service was provided.

During the on-site visit, RSA discussed the process NRD uses to collect and track students with disabilities for the provision of pre-employment transition services to students who have already applied for the VR program. Students with disabilities are entered into NRD's case management system once the individual submits an application for VR services. Since an application had been submitted, all individuals identified were either applicants for or had been determined eligible to receive VR services. The documentation provided demonstrated that individuals identified as being students with disabilities was made primarily through the individuals' age at application.

NRD clarified that the agency also provides pre-employment transition services to students with disabilities who are potentially eligible for services from the VR program. Students with disabilities are identified and referred to NRD for pre-employment transition services by the school personnel, typically the teacher or the transition coordinator, who verify if the student receives transition services under an individualized

education plan (IEP) or section 504 accommodations. No documentation regarding the student was obtained by NRD outside of the student's name unless the student applied for VR services.

The attendance sheets provided by individuals who have been approved by the VR agency as an approved provider (provider) and community rehabilitation program (CRP) were the only documentation made available for students with disabilities who are potentially eligible for VR services. The case management system used by NRD does not have the ability to track students with disabilities receiving pre-employment transition services unless the individual applies for VR services. NRD currently tracks the information on students with disabilities manually at the office level, but plans to have this functionality built into the system when the new reporting requirements for the RSA-911 become effective on July 1, 2017, in accordance with PD 16-04.

TA Provided:

- RSA discussed the need for NRD to develop a formalized system to report on all students with disabilities receiving pre-employment transition services Statewide, as required in Uniform Guidance at 2 CFR 200.302 related to financial management requirements. RSA discussed the requirement to collect data on students with disabilities who receive pre-employment transition services regardless of whether this information is currently reported on the RSA-911. Specifically, VR agencies are required to identify all pre-employment transition services received by a student, the total amount expended for this service, who provided this service and the dates of the service, in accordance with TAC-16-04 and 2 CFR 200.302.
- RSA discussed the requirement to obtain basic information for each student with a disability for the provision of pre-employment transition services. RSA reviewed the reporting requirements in accordance with PD 16-04 for the RSA-911 report and clarified the requirements for verification through documentation within the service record.
- RSA discussed the definition of students with disabilities at section 7(37) of the Act, and §361.5(c)(51) of the implementing regulations, which requires the student to be in a recognized education program and meet the minimum and maximum age for the provision of transition services provided under the Nevada State law, pursuant to IDEA. As such, NRD must verify that the individual was currently enrolled or attending a recognized education program at the time the pre-employment transition service was provided. In addition, NRD must verify that the individual was a student with a disability eligible to receive special education services under IDEA or was considered an individual with a disability under section 504 at the time the service was provided and for the duration of the service.
- RSA discussed the required elements, in accordance with TAC-16-04, that will need to be collected for all students with disabilities who have not applied for or been determined eligible for VR services prior to receiving pre-employment transition services. These data elements include: a unique identifier, social

security number (if available), date of birth, race (required if student is in elementary or secondary education), ethnicity (required if student is in elementary or secondary education), student with a disability, start date of pre-employment transition services and the pre-employment transition services provided, including the type of provider and amount expended for the service.

- RSA discussed the requirement to maintain supporting documentation for all individuals served by the agency, including pre-employment transition services for students with disabilities. Acceptable forms of supporting documentation would include:
 - Case note documenting counselor observation, review of school records, statements of education staff; or
 - Referral form for pre-employment transition services with the identification of a student’s disability, signed by school staff and parent/guardian if the student is under the age of majority in a State (parental consent to participate in pre-employment transition services is governed by State law, as well as policies of the educational programs and the DSU); or
 - Copy of an IEP document, SSA beneficiary award letter, school psychological assessment, documentation of a diagnosis or disability determination or documentation related to 504 accommodation(s).

2. Provision of the Five Required Pre-Employment Transition Services

Section 113(a) of the Act requires that VR agencies provide, or arrange for the provision of, pre-employment transition services to students with disabilities who are eligible or potentially eligible for VR services. The term “potentially eligible” is specific to the provision of pre-employment transition services but is not defined in the Act. The implementing regulations in §361.48(a)(1) clarified that all students with disabilities, regardless of whether or not they have applied or been determined eligible for the VR program, are potentially eligible to receive pre-employment transition services.

A “student with a disability,” defined in section 7(37) of the Act, as amended by WIOA, and §361.5(c)(51) of the implementing regulations, has three components: age requirements; educational program attendance; and the requirement that the individual is eligible for and receiving special education or related services under IDEA, or is an individual with a disability, for purposes of section 504 of the Act. The minimum age for the receipt of pre-employment transition services, the minimum age for the provision of transition services under IDEA, and the maximum age for the receipt of services under IDEA are State-dependent; thus, the implementing definition of “student with a disability” may vary from State to State.

A student with a disability enrolled in any educational program, including a secondary education program, an alternative secondary education program (e.g., general education equivalency testing preparation programs), postsecondary vocational training programs, and postsecondary educational programs, is “potentially eligible” for pre-employment transition services under the VR program. An individual who is deemed to meet the

definition of a “student with a disability” because he or she is eligible for purposes of section 504 of the Act is not required to be receiving services under that section.

Nevada has 16 school districts that cover all 17 counties across the State. NRD currently has local educational agency (LEA) agreements with all 16 school districts. Despite having agreements in place with each school district, NRD has experienced difficulty developing the necessary collaborative relationships with individual schools to serve students with disabilities who can benefit from pre-employment transition services. NRD has stated that due to the limited number of VR counselors, the agency relies on service providers for the direct service provision of the required pre-employment transition services to students with disabilities.

Prior to the on-site visit, NRD provided attendance sheets from multiple providers with the names and dates of students with disabilities who received pre-employment transition services. According to NRD, the attendance sheets were the only record the agency maintained of students with disabilities who had not been referred to the agency for additional VR services. The attendance sheets provided to the TA team represented six different providers, who provided either self-awareness or self-advocacy training. NRD confirmed at the time of the on-site visit that no other provider or CRP was currently providing any other students with disabilities with pre-employment transition services in the school setting. However, NRD has multiple third-party cooperative arrangements in place with multiple school districts and colleges, discussed later in this report.

TA Provided:

- RSA clarified that pre-employment transition services must be made available Statewide to all students with disabilities who are in need of the services, as determined on an individual basis, in accordance with section 113(a) of the Act, and §361.48(a)(1) of the implementing regulations. In order to determine which pre-employment transition services are appropriate for the student, the VR counselor should work in collaboration with the student and the school, consistent with the student’s IEP, when applicable.
- RSA recommended that NRD work with the Nevada Department of Education (NDE) to formalize an agreement with the State educational agency (SEA). The SEA agreement should be used as a guide to determine the roles and responsibilities of NRD and NDE, including the referral process and the provision of pre-employment transition services to students with disabilities.
- The TA team recommended that NRD explore additional resources to ensure the availability of pre-employment transition services for all five required activities, listed at §361.48(a)(2), throughout the State. For example, NRD requires all individuals eligible to receive VR services to receive job readiness training. This service is made available throughout the State through different methods, including CRPs, VR staff and other comparable benefits. NRD should work in collaboration with the LEAs to ensure that the same level of availability of all pre-employment transition services is provided throughout the State.

3. Pre-Employment Transition Services Authorized Activities

Authorized activities must support the provision or arrangement for the provision of the required activities under section 113(b) of the Act, as amended by WIOA, and may be provided only if funds reserved under section 110(d)(1) remain after the provision of the required activities for students with disabilities across the State. Authorized activities, as defined in section 113(c) of the Act, and §361.48(a)(3) of the implementing regulations may be provided to improve the transition of students with disabilities from school to postsecondary education or an employment outcome. The authorized activities must support the provision or arrangement for the provision of the required activities under section 113(b) of the Act. Any reserved funds remaining beyond the targeted amount necessary for the “required” activities may then be used for “authorized” activities in section 113(c) of the Act and §361.48(a)(3) of the implementing regulations.

NRD indicated that the majority of reported expenditures for pre-employment transition services were for the provision of the five required activities described at §361.48(a)(2), as well as pre-employment transition coordination services, defined at section 113(d) of the Act and §361.48(a)(4) of the implementing regulations. RSA and NRD discussed the need to improve and expand pre-employment transitions services to students with disabilities across the State and at the individual school level. This would include establishing a collaborative partnership with underserved or unserved schools, expanding the availability of all pre-employment transitions services to all areas of the State, coordinating transition service activities with teachers and other educational personnel, and developing and implementing strategies to increase competitive integrated employment for students with disabilities.

NRD reported that the agency has recently hired a contractual part-time Transition Coordinator to work exclusively with the schools for the coordination and planning of pre-employment transition services in the northern and rural part of the State. NRD has already hired one contractual part-time Transition Coordinator to work exclusively in southern Nevada. The agency hopes to obtain a statewide Transition Coordinator in the near future as a full-time employee, but this must be approved during the legislative session beginning in February of 2017.

The agency requested TA to determine what requirements must be met before the agency can provide authorized activities in accordance with section 113(c) of the Act and §361.48(a)(3) of the implementing regulations.

TA Provided:

- RSA discussed the requirements that must be met in accordance with §361.48(a)(3) of the implementing regulations prior to provision of the nine authorized activities. Specifically, authorized activities may be used to improve the transition of students with disabilities from school to post-secondary careers, including post-secondary education or employment. The authorized activities must support the provision of required activities, and may be provided only if

funds reserved and spent under section 110(d) of the Act and §361.65(a)(3) remain following the provision of required activities to students with disabilities throughout the State, described under section 113(b) of the Act and §361.48(a)(2) of the implementing regulations.

- RSA clarified that authorized activities can be provided concurrently with the required activities once the agency has reserved the targeted amount of funds necessary for the “required” activities for students with disabilities. Before the provision of authorized activities, NRD must determine the needs of students with disabilities who require pre-employment transition services and the approximate cost for providing the necessary services. RSA discussed the requirement to conduct a thorough comprehensive Statewide needs assessment (CSNA) to facilitate this determination, but also discussed other methods of making a determination based on existing and known information through fiscal forecasting and other planning activities.

4. State Educational Agency Agreement

Under section 101(a)(11)(D) of the Act and the implementing regulations in §361.22, VR agencies must develop policies and procedures for coordinating with educational officials to facilitate the provision of VR services, including pre-employment transition services. In addition, the implementing regulations specific to the formal interagency agreement at §361.22(b) have been revised to incorporate pre-employment transition services that must be included during interagency coordination of transition services.

Prior to the TA visit, NRD provided RSA with the most recent SEA agreement, which was developed and signed in June of 2012, and expired in June of 2016. NRD was in the process of working with the Workforce Innovation Technical Assistance Center (WINTAC) to draft a revised formal interagency agreement with NDE that would include the requirements at §361.22. While onsite, NRD provided RSA with the draft outline of the new SEA interagency agreement to facilitate the discussion.

TA Provided:

- During the on-site visit, RSA discussed the necessary components of a SEA agreement at §361.22(b) and provided feedback and recommendations on the draft agreement developed by NRD. Specifically, RSA recommended that the agreement further elaborate on the process NRD and NDE will use for the coordination and facilitation of pre-employment transition services. It was recommended that the agreement identify the process for referring students with disabilities to NRD for pre-employment transition services or VR services with the necessary documentation and forms. RSA staff indicated that the agreement should also be more specific as to the roles and responsibilities, including the financial responsibilities, of each agency. Finally, RSA discussed the requirement to include coordination between NDE and NRD to meet the documentation requirements under 34 CFR 397.30(a) with regard to students and youth with disabilities who are seeking subminimum wage employment.

- Following the on-site visit, NRD provided RSA a revised draft version of the SEA agreement. The TA team reviewed the agreement and made a number of suggested changes, including strengthening the language in the agreement to place more responsibility with the educational officials to submit appropriate referrals for students with disabilities to NRD with the required documentation and signed parental consent forms, and identifying and establishing the internal controls necessary to ensure that only the costs of VR services provided to students with disabilities who are potentially eligible, or eligible, for VR services are allocated to the VR program, and that the costs of services provided to students without disabilities in the classroom are appropriately allocated to funding sources other than the VR program.

5. Policies Regarding Pre-Employment Transition Services

The new definitions and requirements related to pre-employment transition services and students with disabilities under the Act, as amended by WIOA, require policy revisions and development of new policies. As specified in §361.50(a), VR agencies are required to develop and maintain written policies regarding the nature and scope of VR services, which include pre-employment transition services.

Prior to conducting the on-site TA visit, RSA obtained and reviewed NRD’s revised policies, effective on July 1, 2016, governing the provision of pre-employment transition services. In particular, RSA reviewed NRD’s policies for “Students and Youth with Disabilities” included under section 14 of NRD’s “Participant Services and Policy and Procedure Manual”.

The policy manual included new definitions created by the amendments to the Act under WIOA, including “student with a disability” and “pre-employment transition services.” As discussed with NRD, some of the definitions or descriptions included in the policy manual require revisions in order to be consistent with the Act and the final regulations. For example, the policy and procedure manual specifies that pre-employment transition services “should be made available to all students with disabilities who are in need of these services and who are eligible or potentially eligible for VR services”, but section 113(a) of the Act and §361.48(a)(1) of the implementing regulations state pre-employment transition services “must” be available to all students Statewide.

The policy and procedure manual then lists each of the five required pre-employment transition services in accordance with section 113(b) of the Act and §361.48(a)(2) of the implementing regulations. Following “work-based learning experiences” and “workplace readiness training to develop social skills and independent living”, the manual includes a note that indicates that if the service is funded by the VR agency, it requires opening a VR service record and a determination that the student is eligible for VR services.

TA Provided:

- RSA discussed NRD's policies and procedures governing students and youth with disabilities during the TA visit, including some of the areas of concern. NRD recognized the concerns identified and discussed by RSA and agreed that the policy manual would need to be revised to meet the new requirements of the Act and implementing regulations, published on August 19, 2016.
- RSA commended NRD for developing comprehensive policies and procedures, but also recommended that additional areas be included when revising its manual. This would include providing additional subsections or expansion of subsections under the Student and Youth with Disabilities section, such as the process involving pre-employment transition coordination, in accordance with section 113(d) of the Act and §361.48(a) (4) of the implementing regulations, and "Youth Entering Subminimum Wage Employment" to be consistent with all of the requirements under section 511 of the Act and §397 of the implementing regulations.
- RSA also recommended that NRD provide training to all field staff on the areas of concern identified by RSA involving the policy and procedure manual to ensure that all staff are providing pre-employment transition services consistent with the requirements of section 113 of the Act and §361.48(a) of the implementing regulations. In addition, it is recommended that NRD issue Policy Directives to its staff identifying the applicable changes that the agency intends to make to its manual following the necessary process before the policies have been formally approved and promulgated.

6. Comprehensive Statewide Needs Assessment

Under section 101(a)(15) of the Act and the implementing regulations in §361.29(a)(1)(i)(D), VR agencies must include, in the comprehensive statewide needs assessment (CSNA), the VR needs of youth and students with disabilities, including their need for pre-employment transition services or other transition services, and an assessment of that need, as well as the extent to which services are coordinated with transition services under IDEA. The VR services portion of the Unified or Combined State Plan must describe the strategies the State will use to improve and expand VR services for students and youth with disabilities, including pre-employment transition services for students with disabilities pursuant to section 101(a)(25) of the Act and the implementing regulations in §361.29(d)(3) and (4).

RSA reviewed Description (j) of the VR portion of the Nevada Unified State Plan to review the agency's method for identifying students and youth with disabilities throughout the State and assessing their need for pre-employment transition services and transition services. NRD's most recent CSNA was initially published as part of the FFY 2014 State Plan covering FFYs 2010 –2012. As required under section 101(a)(15)(A) of the Act and §361.29(a) of the implementing regulations, NRD was required to update Description (j) of the VR portion of the State plan as part of the program year 2016 State plan. NRD indicated that it was in the process of working with San Diego State

University, Interworks Institute to develop a CSNA that would include the new requirements at section 101(a)(15)(A)(i) and (ii) of the Act and §361.29(a) of the implementing regulations.

NRD is continuing to work with the San Diego State University, Interworks Institute on the development of the CSNA at the time this report was developed. Once the assessment is final, NRD will be required to review, provide an analysis of the results, and consult with its State Rehabilitation Council (SRC). In addition, NRD will be required to conduct public meetings before amending the VR portion of the unified State plan, as required at §§361.10(e) and 361.20(a) of the VR regulations.

TA Provided:

- RSA discussed the requirement for NRD to conduct a CSNA and identify the VR service needs of youth and students with disabilities requiring transition services, including pre-employment transition services, and an assessment of the needs of students with disabilities requiring pre-employment transitions services. NRD has limited data available to assess the needs of students and youth for pre-employment transitions services using its existing data established over the past two years due to the areas of concern regarding NRD's data identified in this report. Therefore, additional strategies were discussed with NRD to develop a method to identify the needs of students and youth with disabilities throughout the State for pre-employment transition services and other transition services available under IDEA, in accordance with §361.29(a)(i)(D) of the implementing regulations.
- To assist NRD to identify and assess the needs of students and youth with disabilities for transition services, including pre-employment transition services, data was provided on the current number of students in Nevada under an IEP, broken down by age, and the number of students with disabilities currently enrolled in a Nevada public school. This number was compared to the total number of youth and students with disabilities served by NRD during the past few FFYs. In addition, data was pulled from Description (k), Annual Estimates, Description (n), Goals and Plans for Distribution of title VI Funds, and Description (j), Statewide Assessment, of the VR portion of the Nevada State plan. Since NRD is in the process of developing its CSNA, RSA informed the NRD that a determination could be made regarding the needs of students and youth with disabilities throughout the State for the provision of "required" pre-employment transition services through other planning activities, including fiscal planning and forecasting.

7. Pre-Employment Transition Services SF-425 Expenditure Reporting

During the on-site visit, RSA reviewed with NRD the pre-employment transition services expenditure data reported on the most recent SF-425 reports (3/31/16) for the FFY 2015 and 2016 VR awards. The 3/31/16 FFY 2015 VR SF-425 report (6th quarter) reflected pre-employment transition service expenditures that represented 13.0 percent of the total

Federal VR funds authorized, while the 3/31/15 FFY 2016 VR SF-425 report (2nd quarter) reflected 5.7 percent for pre-employment transition service expenditures. The 13.0 percent of expenditures reported for reserve purposes indicated that NRD was close to meeting the 15 percent reserve requirement. However, NRD provided information to RSA onsite about expenditures for purchased services that it had reported for reserve purposes on the FFY 2015 and 2016 VR SF-425 reports. A review of the itemized services indicated that a significant portion of the purchased services expenditures identified and reported as pre-employment transition services provided to students with disabilities did not qualify as pre-employment transition services required activities.

TA Provided:

- RSA provided TA related to the five required pre-employment transition services activities, and compared the purchased services expenditures to the required activities. RSA indicated that NRD should review its purchased services for both FFYs 2015 and 2016 to identify only those purchased service expenditures that met the requirements of the five pre-employment transition services required activities. The NRD data staff person indicated that a query of purchased services in NRD's case management system can be modified to include only expenditures that meet the requirements of pre-employment transition services required activities to students with disabilities.
- Once those expenditures are identified, RSA indicated that NRD should submit a request to re-open the appropriate FFY 2015 and 2016 VR SF-425 reports that require a revision to the pre-employment transition service expenditure data to accurately reflect the reserve expenditures.

8. Pre-Employment Transition Services Designated State Unit (DSU) Personnel Internal Controls:

NRD informed RSA during the on-site review that it instructed its VR Counselors to track and record the time spent directly providing pre-employment transition services to students with disabilities through personnel activity reports (PARs) or a similar mechanism. Staff indicated that codes "A" through "E" were created on the PARs to correspond to each of the five pre-employment transition services required activities. However, NRD indicated that this practice had been discontinued once VR Counselors had become accustomed to the required activities.

In addition, NRD requested TA to determine how much of a Transition Coordinator's salary may be counted towards the 15 percent reserve. The agency reported the two Transition Coordinators were hired as contractual employees and work exclusively on the coordination and planning of pre-employment transition services. As such, NRD inquired if 100 percent of a Transition Coordinator's salary could be counted toward the 15 percent minimum reserve for the provision of pre-employment transition services.

TA Provided:

- RSA provided TA regarding the need for proper internal controls to identify each individual required activity that DSU staff members provide to students with disabilities who are potentially eligible or eligible for VR services. These internal controls are necessary for reporting expenditures required on the new RSA-911 report, which requires the reporting of expenditures for each of the required activities per individual (student). RSA recommends that NRD re-establish its five codes for DSU staff-provided required activities, or an equivalent internal control, to permit the VR Counselors and other staff persons to accurately track their time spent providing the five required activities so that NRD may accurately report reserve expenditure data on the RSA-911 report.
- Regarding its Transition Coordinators, NRD may use funds reserved for the provision of pre-employment transition services to pay for certain costs incurred by a transition coordinator, specifically the portion of the transition coordinator's salary, benefits and travel costs that is proportional to the time spent directly providing or arranging for the provision of pre-employment transition services. However, to the extent the Transition Coordinator is performing other duties as well, the DSU is not permitted to charge the portion of salary, benefits, and travel costs, etc., for those other activities, to the funds reserved for the provision of pre-employment transition services. Therefore, when considering whether the Transition Coordinator is only providing pre-employment transition services to students with disabilities, it is important to consider that a student receiving pre-employment transition services may also be receiving other VR services (other than pre-employment transition services), and as such, would be under a different cost objective, and such costs would not be permissible with the funds reserved for the provision of pre-employment transition services.
- In addition, RSA's understanding is that the Transition Coordinators referenced in NRD's TA request are not NRD employees, but are contracted positions. It will be important for the DSU to require the Transition Coordinators, as part of the contract, to maintain proper internal controls to ensure the proper accounting of the individual's time in order to ensure accurate cost allocation and accounting of funds.
- It is also important to note that NRD is not permitted to pay any administrative costs, as defined in section 7(1) of the Rehabilitation Act and §361.5(c)(2), such as the salaries for a transition coordinator's clerical assistant or supervisor, with the funds reserved for the provision of pre-employment transition services. RSA clarifies that any administrative costs that are associated with a contracted Transition Coordinator, who does not directly provide pre-employment transition service required activities, but arranges for the provision of those services, may not be paid with funds reserved for the provision of pre-employment transition services.

9. Allocation of Purchased Pre-Employment Transition Services:

Through purchased service agreements, providers and CRPs are providing a self-awareness module – under the required activity for instruction in self-awareness – to students with disabilities in the public schools. NRD indicated that the self-awareness module is provided in a classroom setting, but includes students who are potentially eligible, or eligible, for VR services, as well as those who are not. NRD expressed concern that segregating the students with disabilities from students without disabilities would run counter to the emphasis of integration in the WIOA legislation.

TA Provided:

- RSA provided TA that, as with all VR funds, expenditures for pre-employment transition services must be provided only to students with disabilities who are potentially eligible, or eligible, for the VR program. Uniform Guidance at 2 CFR 200.405(a) emphasizes that costs must be allocated based upon the proportion of relative benefits received by a program. NRD must implement the necessary internal controls to ensure that VR fund expenditures only benefit the VR program, and that purchased pre-employment transition services required activities only benefit students with disabilities who are potentially eligible, or eligible, for VR services.
- RSA provided additional TA to NRD that while section 110(d)(2) of the Act and §361.65(a)(3)(ii)(B) restrict pre-employment transition services reserve funds from being used to pay for administrative costs associated with the provision of such services or any VR service, RSA has determined that this provision is not applicable to contracts for the direct provision of purchased pre-employment transition services. Therefore, administrative costs associated with the direct provision of required pre-employment transition services purchased through a contract, which are reasonable, necessary and allocable to the provision of the required activities, may be paid with reserve funds.

10. Third-Party Cooperative Arrangement (TPCA) Match:

As part of its document request to NRD, RSA received and reviewed six TPCAs. RSA's review revealed that in some instances, the certified expenditures reported for match under the TPCA were for unallowable expenditures, including administrative costs. In some of the TPCAs, administrative staff person time was certified as match under the TPCA, while the cooperating agency staff directly providing VR services was paid for with Federal VR funds under the TPCA.

TA Provided:

- RSA provided TA to NRD regarding the revised TPCA implementing regulations at §361.28(c)(2) and (3), which clarify that the only certified expenditures that qualify as match under a TPCA are those for the salary and fringe benefits of cooperating agency personnel who directly provide VR services to recipients

under the TPCA, as well as other direct expenditures incurred by the cooperating agency for the sole purpose of providing services under the TPCA, as long as they are verifiable through supporting documentation and do not meet the definition of third-party in-kind contributions under Uniform Guidance at 2 CFR 200.96.

- RSA also provided TA related to the differences between TPCAs and inter-agency transfers (IATs) of funds received from State or local public agencies. In particular, the VR regulations at §361.28, related to TPCAs, are not applicable to IATs, which represent a cash transfer of non-Federal funds into the account of the VR agency. In an IAT, the VR program and transferring agency may enter into an agreement for the provision of VR services to individuals eligible for the VR program, as well as students with disabilities who are potentially eligible for VR services, who are affiliated with the State or local public agency transferring the funds.
- RSA directed NRD to review its TPCAs to identify those in which certified expenditures for match under the TPCA do not meet the requirements of §361.28, and to take one of the following actions: revise the agreements to comply with the TPCA requirements; terminate the TPCAs; or consider entering into an IAT with the State or local public agencies.

V. The State Supported Employment Services Program

A. General

The State Supported Employment Services program (Supported Employment program), authorized under title VI of the Act, as amended by WIOA, provides grants to assist States in developing and implementing collaborative programs with appropriate entities to provide programs of supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, to enable them to achieve a supported employment outcome in competitive integrated employment.

WIOA made several significant changes to title VI of the Act, which governs the State Supported Employment Services program. All of the amendments to title VI are consistent with those made throughout the Act, namely to maximize the potential of individuals with disabilities, especially those individuals with the most significant disabilities, to achieve competitive integrated employment and to expand services for youth with the most significant disabilities.

Through the implementation of this focus area, the RSA TA team provided TA to NRD in both program specific and fiscal accountability areas related to the Supported Employment program. Program specific TA refers to the Act and to VR and Supported Employment program implementing regulations at 34 CFR 361 and 34 CFR 363, respectively.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to competitive integrated employment:

1. Extended Time Frame for the Provision of Supported Employment Services

RSA discussed the definition of Supported Employment Services at section 7(39) of the Act and §361.5(c)(39) of the implementing regulations. In particular, section 7(39)(C) of the Act, as amended by WIOA, extends the time frame for the provision of supported employment services by the VR agency from 18 months to no longer than 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE. The extension provides additional time for individuals with the most significant disabilities to receive services and supports necessary after placement to achieve an employment outcome in supported employment, either in competitive integrated employment or working on a short-term basis to achieve competitive integrated employment.

RSA discussed the impact of extending the timeframe for the provision of supported employment services from 18 months to 24 months. NRD staff stated that the extension would not have a significant impact on the agency. NRD staff reported very few individuals, if any, required supported employment services for the full 18-month supported employment period as it existed prior to WIOA. Therefore, there was little concern that the extension of supported employment services to a period of 24 months would have much impact on the agency. According to the RSA-911 data, individuals who achieved a supported employment outcome during FFY 2015 received services for an average of 12 months. This time period spans the time following the IPE being signed and approved until the date the service record is closed, including a minimum of 90 days following the attainment of employment to ensure that the individual is stable in employment and meets all requirements under §361.56 of the VR regulations. This means that the 12-month time period calculated based on the RSA-911 data potentially overstates the period of time for which NRD provided supported employment services, because the 12-month average time period includes time from when the IPE was signed to the date of the supported employment placement, as well as any time after the individual has made the transition to extended services, neither of which are included in the ongoing support period for the provision of supported employment services.

RSA also reviewed the services provided to individuals with title VI funds based on the data provided by NRD. The data indicated that only a small number of individuals received on-the-job supports. The majority of services identified for FFY 2015 would not meet the requirements of supported employment services. While RSA was onsite, the definition of supported employment services was discussed in conjunction with the appropriate expenditure of funds under title VI. NRD reported the agency has been using a more expanded interpretation of supported employment services, specifically any services or equipment required for individuals who have an approved IPE with a supported employment goal that is necessary to achieve their vocational goal.

TA Provided:

- RSA provided NRD TA on the definition and application of supported employment services at section 7(39) of the Act and §361.5(c)(39) of the implementing regulations. Federal Supported Employment award funds are meant to be used to support and maintain an individual with a most significant disability in employment; therefore, the provision of supported employment services may not be provided prior to an individual being placed into an employment position requiring supported employment services. Section 7(39) of the Act indicates that supported employment services are “ongoing support services, including customized employment, needed to support and maintain an individual with a most significant disability in supported employment...” Section 7(38) of the Act defines supported employment:

(38) Supported employment.— The term ‘supported employment’ means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved,...

Since the use of Federal Supported Employment award funds can only begin when an individual with a most significant disability is placed in an employment position requiring supported employment services, this means that all Federal expenditures for that individual that occur prior to the individual being placed into supported employment must be provided with VR funds.

3. Competitive Integrated Employment and Short-Term Basis

Section 7(38) of the Act and the implementing regulations in 34 CFR 363.1 require that supported employment be in competitive integrated employment or, if not, in an integrated setting in which the individual is working toward competitive integrated employment on a short-term basis.

Prior to going onsite, RSA reviewed NRD’s policies and procedures related to Supported Employment, which became effective on July 1, 2016. Although short-term basis was included in the policy’s definition of supported employment, it was noted that no additional reference or procedures regarding the application of employment on a short-term basis was included when defining competitive integrated employment for individuals in supported employment.

RSA also reviewed the supported employment outcomes reported by NRD for FFY 2015 through the RSA-911 report. Of the 77 individuals employed with supports, 72 were closed as competitively employed in an integrated setting. The additional five individuals who achieved supported employment in an integrated setting were not earning competitive wages.

During the on-site visit, RSA discussed the definition of short-term employment and how an individual would be coded in the RSA-911 report if the agency utilized this option. NRD did not feel the agency would be using this option for its consumers, but rather would continue to keep the individual's service record open until such time as the individual is able to earn competitive wages.

TA Provided:

- RSA provided TA on the new definition of supported employment – which means competitive integrated employment, or an individual working in an integrated setting toward competitive integrated employment on a short-term basis – defined at section 7(38) of the Act and §361.5(c)(53) of the implementing regulations, as well as TA on the specific reference to short-term basis in §363.1(c) of the supported employment program regulations. RSA clarified that supported employment includes short-term basis when an individual is employed in an integrated setting and working towards competitive integrated employment. The individual must “reasonably” anticipate being able to achieve competitive integrated employment within six months of the supported employment outcome, or in limited circumstances, within 12 months if the individual has demonstrated progress towards achieving competitive earnings, as documented in the individual's service record.
- RSA recommends that NRD revise its Supported Employment policies to include the option and definition for competitive integrated employment and short-term basis, as defined at §363.1(c). Although the agency may use this option infrequently, it should nevertheless be included in the agency's policies made available to VR counselors. These policies should include the required steps the VR counselor will need to follow during the short-term basis period, including documenting the individual's progress toward competitive integrated employment and how this information must be coded in the case management system for purposes of reporting and tracking.

4. Extended Services for Youth with the Most Significant Disabilities

Prior to the passage of WIOA, VR agencies were not permitted to expend Supported Employment or VR program funds for extended services. Section 604(b)(2) of the Act, as amended by WIOA, mandates that the VR agency make available extended services for youth with the most significant disabilities for a period not to exceed four years. The Act defines “youth with a disability” in section 7(42) as an individual with a disability who is not younger than 14 years of age, and not older than 24 years of age.

This new requirement is contained in the definition of “extended services” in 34 CFR 361.5(c)(19)(v) of the implementing regulations and is an authorized service in §363.4(a)(2) of the implementing regulations until such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability under 34 CFR 361.5(c)(58), or has received up to four years of extended services provided by the VR

agency, whichever occurs first. Although the VR agency must discontinue funding extended services once a youth reaches age 25 or has received up to four years of extended services provided by the VR agency, it should explore the availability of funding from other sources to continue extended services should they be required for the individual to maintain employment.

RSA reviewed NRD's supported employment policies before going onsite, including the addition of extended services. NRD's revised policies indicate that VR funds may now be used as a resource for funding extended services to youth with the most significant disabilities, but does not specify any conditions or requirements that must be met prior to initiating extended services. NRD does specify that the individual would be eligible to receive extended services for up to four years or until the individual turns 25 years of age, whichever comes first.

TA Provided:

- RSA provided NRD TA on section 604(b)(2) of the Act and §363.4(a)(2) of the supported employment implementing regulations regarding the new provision mandating the VR agency to fund extended services for youth with the most significant disabilities.
- NRD has revised its policies to include the provision of extended services to youth with the most significant disabilities. It was recommended that NRD identify the criteria that must be in place before the agency can transition eligible youth in supported employment to extended services to ensure the individual is working in competitive integrated employment, or working in an integrated setting on a short-term basis toward competitive integrated employment.
- NRD should explore and develop the necessary contracts for CRPs throughout the State that are available for the provision of extended services. In addition, the agency should develop an appropriate fee schedule for these services that would be applied consistently to all providers.

5. Transitional Employment

Congress removed all references to transitional employment from the Act, thus the term has been removed in the implementing regulations, both as a separate definition and from the definitions of "supported employment" and "ongoing support services" in §§361.5(c)(53) and 361.5(c)(37), respectively, of the implementing regulations.

Transitional employment may be provided as a VR service that can lead to an employment outcome, but does not constitute a supported employment outcome within the meaning of the definition of "supported employment" in §§361.5(c)(53) and §363.1(b) and (c) of the implementing regulations. Therefore, transitional employment would not be an appropriate placement for employment on a short-term basis or as an employment outcome.

RSA provided TA on the change to the supported employment definition as it relates to transitional employment and what effect this may have on the agency. NRD stated that this change would not have any impact on the agency as it has not used this option in the past. In addition, NRD had also removed reference to transitional employment from its Supported Employment policies.

TA Provided:

- RSA provided an overview of transitional employment and the removal of this option from the Act and the implementing regulations. RSA discussed the possible impact the removal of transitional employment may have on NRD and future supported employment outcomes. Since NRD was unaware of this option being used by the agency, the removal of this option is unlikely to have any impact on the provision of services or possible supported employment outcomes.
- NRD requested TA to determine if transitional employment can be used as a service to assist individuals with the most significant disabilities to obtain competitive integrated employment. RSA verified that transitional employment may be used as a VR service to assist individuals with disabilities to achieve an employment outcome. It was recommended that the VR counselors assist individuals who pursue this option regarding the possible impact it may have on any Social Security benefits the individual may be receiving or any conflicts with section 511 of the Act and 34 CFR part 397 involving temporary employment at subminimum wage with a section 14(c) entity.

6. Supported Employment Carryover

During the on-site TA visit, NRD indicated that it did not meet the 10 percent match requirement for all of the FFY 2015 50 percent reserve of the State Supported Employment award allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities. A review of the 9/30/15 (4th quarter) Supported Employment program SF-425 report indicated that of the \$300,000 in State Supported Employment award funds authorized, only \$70,939 of the \$150,000 in reserve funds were expended. NRD indicated onsite that none of the funds had been carried over into the succeeding Federal fiscal year. Subsequent to the on-site visit, NRD submitted the final FFY 2015 Supported Employment program SF-425 report through 9/30/16 (8th quarter), which demonstrated that the non-Federal share reported increased from \$7,882 to \$12,679 between the 4th and 8th quarters. In addition, the final SF-425 report indicates that \$264,110 of the \$300,000 State allotment was spent, and \$114,110 in total reserve funds were expended through the second year of the period of performance.

TA Provided:

- RSA provided TA to NRD that any portion of unobligated Federal Supported Employment award funds from the 50 percent reserve must be matched by the end of the year of appropriation to be carried over for obligation and expenditure

into the succeeding Federal fiscal year. However, any unobligated portion of the Federal Supported Employment program allotment that does not constitute the reserve may be carried over into the succeeding FFY for obligation and expenditure because it does not have a match requirement.

- RSA reviewed the final SF-425 report for the FFY 2015 Supported Employment award, and clarifies that an increase to non-Federal funds that occurs after the year of appropriation does not constitute match for the Supported Employment program. Therefore, despite the increase in non-Federal share from \$7,882 to \$12,679 between the 4th and 8th quarters, the increase in funds does not result in additional match for the FFY 2015 Supported Employment award. Since \$7,882 in non-Federal funds were provided in the year of appropriation, which matches \$70,938 in Federal Supported Employment award funds, NRD was unable to carry over any of the remaining \$79,062 (\$150,000 - \$70,938) in unobligated reserve funds into the subsequent Federal fiscal year. Based upon the \$114,110 in Federal reserve funds reported as expended for the provision of supported employment services, including extended services, to youth with the most significant disabilities on the final FFY 2015 SF-425 report, \$43,172 (\$114,110 - \$70,938) of those expenditures were not matched in the year of appropriation, and were not eligible for carryover for obligation and expenditure into the subsequent Federal fiscal year. RSA requests that NRD review the FFY 2015 Supported Employment program SF-425 reports, as well as its case management and accounting records, and submit a request to re-open the appropriate SF-425 reports for correction.
- In addition, RSA clarified that the 10 percent match requirement for the reserve of Supported Employment award funds for the provision of supported employment services, including extended services, to youth with the most significant disabilities, is only applicable to 50 percent of the Supported Employment program allotment. This means that States may expend any portion of the State's allotment, up to 100 percent, for the provision of supported employment and extended services to youth with the most significant disabilities, but the match requirement for the reserve is only applicable to 50 percent of the State Supported Employment program allotment.

7. Administrative Cost Limitation

Under section 606(b)(7)(H) of the Act, as amended by WIOA, and implementing regulation §363.51, a State may not use more than 2.5 percent of its Supported Employment program allotment to pay for administrative costs. Prior §363.51 limited administrative costs to 5 percent of the State's allotment. With this change, more Supported Employment program funding will be spent on providing direct services to individuals, including youth, with the most significant disabilities. However, just as in previous years, nothing prevents a State from using VR funds to pay for Supported Employment program administrative costs in accordance with section 608(a) of the Act.

RSA and NRD conducted on-site discussions related to the change in administrative costs and answered questions related to the impact of this change on NRD's management of

the Supported Employment program funds, including the 50 percent reserve for the provision of supported employment services, including extended services, to youth with the most significant disabilities.

TA Provided:

- RSA provided TA that the reduction of the administrative cost cap from 5 percent to 2.5 percent may be mitigated by the ability of the VR agency to utilize VR funds to pay for any administrative costs in excess of 2.5 percent that are allocable to the Supported Employment program.
- RSA further clarified that any administrative costs charged to the Federal Supported Employment allotment, up to the 2.5 percent cap, do not count toward the 50 percent reserve requirement for the provision of supported employment services, including extended services, to youth with the most significant disabilities.

VI. Next Steps

A. General

As part of RSA's follow-up activities to the TA visit to NRD, RSA will continue to assist NRD to implement new policies and procedures required by the Act, as well as its implementing regulations, through further TA and monitoring in accordance with section 107 of the Act.

B. Technical Assistance Needs

Additionally, the RSA TA team has, in consultation with NRD, identified the following TA needs that were either not met during the on-site visit or are on-going TA needs of the agency. RSA will continue to provide TA to NRD directly or by connecting the agency with TA resources.

1. SEA Agreement

NRD has been working with the WINTAC to develop a new SEA agreement in collaboration with NDE that will incorporate all new and existing requirements of an agreement, in accordance with section 101(a)(11) of the Act and §361.22 of the implementing regulations, for the coordination of transition services, including pre-employment transition services, to students and youth with disabilities. Since the on-site visit, NRD has provided RSA a draft copy of the agreement to review and provide recommendations. The TA team reviewed and provided input and recommended edits before sending the agreement back to NRD. NRD is currently reviewing the recommendations and will either request further clarification or make the recommended edits and share the final version with RSA.

2. Case Management System

During the course of the TA visit, RSA has identified various coding problems in NRD's case management system. Prior to going onsite, RSA identified significant gaps in the data being reported by NRD involving the specific services provided to consumers, specifically for FFYs 2014 and 2015. During the on-site visit, additional concerns were identified and discussed. NRD will need to make significant changes and improvements to capture the current data required for the RSA-911, but also the new fields and data elements that go into effect on July 1, 2017. NRD has requested assistance to ensure that the necessary coding can be made in its case management system prior to July 1, 2017, while continuing to collect the required data during the interim.

3. Development of the CSNA

NRD has been working with the San Diego State University, Interworks Institute to develop its CSNA that will assist the agency to assess the VR needs, including the provision of pre-employment transition services, for individuals with disabilities, including students and youth with disabilities, across the State. Once the assessment has been completed, NRD should evaluate its current and future needs regarding personnel, CRPs, other sources of non-Federal share and the option of implementing an order of selection.

C. Next Steps

1. Agency Next Steps

- Due to RSA's review and on-site discussion with NRD regarding the purchased services reported as paid for with funds reserved for pre-employment transition services that do not qualify as pre-employment transition services required activities, next steps for NRD should include a review of its purchased services for both FFYs 2015 and 2016 to identify only those purchased service expenditures that met the requirements of the five pre-employment transition services required activities. NRD indicated that a query of purchased services within its case management system can be modified to ensure that the parameters only result in expenditures that meet the requirements of pre-employment transition services required activities provided to students with disabilities. This activity will ensure that only pre-employment transition services are reported on the SF-425 reports. Once those expenditures are identified, NRD should submit a request to re-open the appropriate FFYs 2015 and 2016 VR SF-425 reports that require a revision to the pre-employment transition service expenditure data, to accurately reflect the reserve expenditures.
- NRD's TPCAs are inconsistent with the implementing regulations at 34 CFR 361.28, particularly with the use of certified expenditure of the time for cooperating agency personnel that are counted as non-Federal share to match the Federal VR program funds. RSA directed NRD to review its TPCAs to identify those in which certified expenditures for match under the TPCA do not meet the requirements of §361.28, and take the following steps: revise the agreements in accordance with all TPCA requirements;

terminate those TPCAs that cannot meet the §361.28 requirements; or consider entering into an interagency transfer of funds with the State or local public agencies.

- RSA clarified with NRD that Supported Employment program funds may not be expended until an individual has been placed into a supported employment position, and that any VR services provided to individuals prior to supported employment placement must be paid with VR program funds. To ensure that VR and Supported Employment program funds are expended appropriately, NRD should review the Supported Employment program expenditures for FFYs 2016 and 2017 so that expenditures for individuals are allocated to the benefitting fund sources based upon these requirements. Once the expenditures have been allocated to the VR and Supported Employment programs, NRD should submit requests to re-open any VR or Supported Employment SF-425 reports that require revision. To the extent possible, NRD should implement internal controls in its case management system to ensure that Supported Employment funds are only expended after supported employment placement. NRD should update policies and procedures governing the use of Supported Employment program funds and train its VR counselors and staff as appropriate on the requirements for expending these funds.
- RSA discussed multiple areas of NRD's policy and procedure manual that need updating or revisions. Following the issuance of this report, NRD plans to update its manual to be consistent with the Act and the VR regulations. This would include, but is not limited, to the following areas:
 - Section 14-Students and Youth with Disabilities. Examples of revisions would include: revising the requirements for the provision of pre-employment transition services for students with disabilities; process for determining the necessary pre-employment transition services for students with disabilities who are eligible or potentially eligible for VR services; documentation requirements for students with disabilities; and update subsection Youth Entering Subminimum Wage Employment to include the documentation requirements, required services before beginning employment at subminimum wage, and the requirement intervals for services to individuals employed at subminimum wage.
 - Section 13-Supported and Customized Employment. Examples of revisions would include: revise definition of supported employment regarding customized employment, amend subsection II, Use of Supported Employment Funds regarding the provision of supported employment services, remove the requirement for students with disabilities to be under an IPE prior to receiving pre-employment transition services, and the requirement for a rehabilitation closure.
 - Other sections. Examples of revisions would include: requirement for all individuals to participate in job readiness training and be entered into State database for employment, and definition of customized employment.

RSA will be available to provide technical assistance and review a draft version of the policies.

- NRD will need to provide its staff with training on the requirements of the Act and the implementing regulations. In particular, NRD will need to update staff on all revised policies and procedures and the areas of concern identified within this report. In addition,

staff will need to be trained on the necessary coding required to account for the provision of all pre-employment transition services provided to students with disabilities, regardless of whether the service is provided on an individual basis or in a group setting. Finally, staff should be trained on obtaining the required documentation prior to the provision of pre-employment transition services for students with disabilities who are potentially eligible for VR services.

2. RSA Next Steps

RSA will continue to provide TA and guidance to NRD, as needed.