

# Introduction to the Vocational Rehabilitation (VR) Program

January 24, 2022

Ron Hager, National Disability Rights Network

Amy E. Scherer, National Disability Rights Network

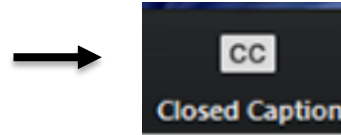
**RAISE**

NATIONAL  
**DISABILITY RIGHTS**  
NETWORK  
Protection & Advocacy for Individuals with Disabilities



# Using Closed Captioning

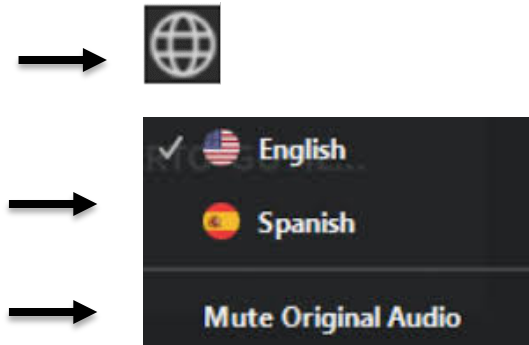
- To start using CC, click the caption button



---

## Uso de la interpretación de idiomas

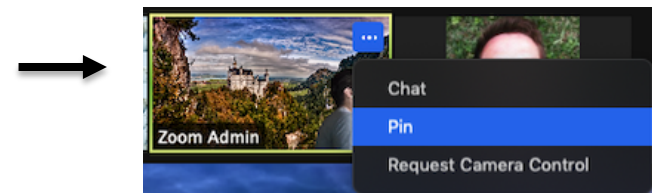
- Hagan clic en el icono de interpretación
- Seleccionen "Spanish"
- Después de seleccionar "español", hagan clic "Mute Original Audio"



---

## Using ASL

- To pin the interpreter, hover over the video of the participant you want to pin and click ...
- From the menu, click Pin.



# The Case of Mario

**Mario is 18 years old and a high school senior.**

- He has cerebral palsy, uses a 7-year-old power wheelchair for all mobility, and relies on accessible transportation to go to school.
- He turned 18 in February 2021.
- He will graduate from high school in June 2021.
- He plans to go to college and study to become an English teacher at the high school or college level.

# Mario's Income

## Social Security, SSI

- Was receiving Social Security dependent's benefits - \$420 per month (Dad gets Social Security Retirement, Mom works).
- In February 2021, at age 18, dependent's benefits converted to SSDI as disabled adult child (same monthly amount).
- He also began receiving SSI as parental income no longer considered.

# Mario's Health Insurance

## Private insurance

- Covered as dependent on Mom's insurance.
- Will continue through age 26.

## Medicaid

- In February 2021, as an SSI recipient, he became eligible for Medicaid.

# Introduction

- **Rehabilitation Act first passed in 1973**
- **Most recently amended by the Workforce Innovation and Opportunity Act (WIOA) in 2014**
- Under Title I, states given money to provide VR services to persons with disabilities
- Rehabilitation Services Administration (RSA), the U.S. Department of Education responsible for administration and oversight
- Every state has a state VR agency
- Some states have second agency that serves only individuals who are legally blind

# Introduction, cont.

- VR can fund wide range of goods and services connected to person's vocational goal
- Congress has stated VR services are to empower individuals to maximize employability, economic self-sufficiency, independence and integration into the work place and the community through “comprehensive and coordinated *state-of-the-art* programs.”

# Understanding the VR System

## Myth or Reality?

In order to be eligible for services, an individual must be willing to seek employment so they no longer need any public benefits (such as Social Security benefits).



# Eligibility

# Basic Eligibility Criteria

- To receive services, an individual must
  - have a disability which results in a “substantial impediment” to employment and
  - require VR services “to prepare for, secure, retain or regain employment”
- Any service an individual is to receive from the VR system must be connected to employment goal

# Potential Employment Outcomes

- Full or part-time competitive employment in an integrated setting
- Supported employment
- Other employment in an integrated setting such as self-employment, customized employment, telecommuting and business ownership
- Must be consistent with person's strengths, abilities and informed choice

# Disability Criteria

**Must have mental, physical or learning disability that interferes with the ability to work**

- Need not be so severe as to qualify for SSDI or SSI
- Must only be a substantial impediment to employment.
- Recipients of SSDI or SSI are presumed eligible, as individuals with a significant disability

# Mario

- As a high school student with a disability, is he currently eligible for VR services?

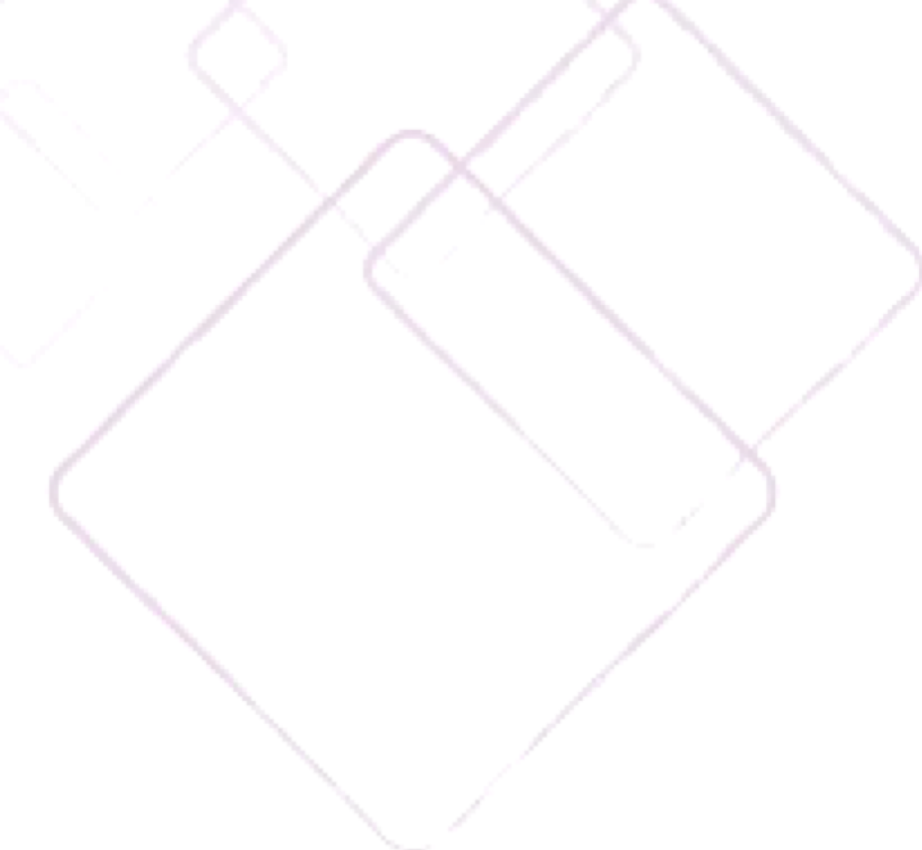
# Presumption of Eligibility

- VR services may be denied if person cannot benefit
- All applicants presumed capable of employment, despite the severity of a disability, unless VR shows by “clear and convincing” evidence that he or she cannot benefit
- VR agency must explore individual’s work potential through variety of trial work experiences, with appropriate supports

# Order of Selection

**If state lacks resources to serve all eligible individuals who apply:**

- Must specify order for selecting who will receive services
- Must ensure that individuals with “most significant disabilities” are selected first
- Cost of services cannot be a criteria
- If state goes to Order of Selection, must continue to provide all necessary services to anyone who started receiving services prior to effective date, regardless of severity of individual’s disability



# The Individualized Plan for Employment (IPE)



# IPE - Introduction

- Written IPE includes individual's employment goal and specific services to reach goal
- Comprehensive assessment as necessary to determine employment outcome, objectives, nature and scope of VR services
- May include referral for rehabilitation technology services (AT), "to assess and develop the capacities of the individual to perform in a work environment"

# Informed Choice

- All activities implemented consistent with principles of “respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on *informed choice*, of individuals with disabilities”
- Reason: Congress’ belief “that a consumer-driven program is most effective in getting people jobs”

# IPE Requirements

- Employment outcome
- Services to be provided
- Timeline
- Entity to provide services
- Criteria for evaluating progress
- Responsibilities of VR, individual or other agencies, if applicable

# IPE Review

- Must be reviewed at least annually
- Must be amended if necessary due to changes in
  - Employment outcome
  - VR services
  - VR service providers
- Changes will not take place until agreed to by individual and VR counselor

# Closing Record of Services

- Achieve and maintain employment outcome for at least 90 days
- Agreement by individual and VR that the outcome is satisfactory and individual is performing well
- VR must notify individual of possibility of post-employment services even after record is closed

# Available Services

# Understanding the VR System

- **Myth or Reality?**

Once an individual is found eligible for VR services, he or she is entitled to any VR service.

# Intro – Available Services

- Any services to assist in preparing for, securing, retaining, advancing, or regaining an employment outcome
- All necessary services to equip the individual for employment
- Severity of disability or cost of services can have no bearing on scope of services individual receives
- Available services are incredibly broad and varied



# Required Service Options, p. 1

- The assessment to determine eligibility and needs
- Counseling, guidance and job placement services and, if appropriate, referrals to the services of WIA providers
- Vocational and other training, including higher education and the purchase of tools, materials and books

# Required Service Options, p. 2

- Diagnosis and treatment of physical or mental impairments to reduce or eliminate impediments to employment, to extent support is not available from other sources
- Maintenance for additional costs incurred during rehabilitation
- Personal assistance services while receiving VR services

# Required Service Options, p.3

- Transportation, including adequate training in use of public transportation vehicles and systems, provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome
- Transportation may include vehicle purchase

# Required Service Options, p.4

- Interpreter services for individuals who are deaf, and readers, rehabilitation teaching and orientation and mobility services for individuals who are blind
- Occupational licenses, tools, equipment, initial stocks and supplies
- Technical assistance for those who are pursuing telecommuting, self-employment or small business operation

# Required Service Options, p.5

- Rehabilitation technology (i.e., AT), including vehicular modification, telecommunications, sensory, and other technological aids and devices
- Transition services for *students* with disabilities to facilitate the achievement of the employment outcome identified in the IPE
- Supported employment

# Required Service Options, p. 6

- Services to the family to assist an individual with a disability to achieve an employment outcome
- Other goods or services necessary to achieve employment outcome
- Post-employment services to assist to retain, regain, or *advance* in employment
  - Not intended to be complex or comprehensive

# Mario

- List a few services that VR might be able to provide to him to help him reach his employment goal?

# VR Services Policies

- States must develop policies concerning provision of VR services
- Must ensure services are provided based on each person's individual needs
- May not place “any arbitrary limits on the nature and scope of” VR services to be provided to achieve an employment outcome



# VR Services Policies, cont.

- May have reasonable time periods to provide services
  - But not so short as to effectively deny a service and must “permit exceptions so individual needs can be addressed”
- Payment rates must not be so low as to effectively deny a necessary service, may not be absolute

# A Focus on the Provision of Advanced Training

- “Encouraging qualified individuals...to pursue advanced training in science, technology, engineering or mathematics...including computer science, medicine, law or business”
- Suggested careers are “not limited to” these options.

# Financial Need Criteria

- Must specify which services will be subject to financial need
- Must take into account disability-related expenses
- Must not be so high as to effectively deny an individual a necessary service

# Financial Need Criteria, cont.

- Exempt services
  - Diagnostic services
  - Counseling, guidance and referral services
  - Job placement
  - Personal assistance services
  - Auxiliary aids and services such as interpreters and readers
- SSDI and SSI recipients, including 1619(b) Medicaid are exempt
  - They should not be required to participate in the cost of VR services

# Understanding the VR System

## Myth or Reality?

The main goal of the VR program is help individuals with disabilities obtain entry-level employment.

# Comparable Benefits

- VR agencies are considered payer of last resort for many services
- Will not pay for a service if similar or comparable benefit available through another provider
- For example, if person qualifies for services through Medicaid, VR will not provide them
- Must be available at time needed

# Resources that are not Comparable Benefits

- Student loans, which must be repaid
- Scholarships and awards based on merit
- SSI's Plan for Achieving Self-Support (PASS)

# Mario

- Are there any comparable benefits that would need to be considered before VR paid for services for him?



# **Pre-Employment Transition and Transition Services**

# Role of VR in Transition

- VR should “participate actively throughout the transition planning process, not just when the student is nearing graduation.”
- VR should attend IEP meetings.
- When transition services are provided by VR, as with any other VR service, they must be designed to “promote or facilitate the achievement of the employment outcome identified in the student’s [IPE].”

# Pre-Employment Transition Services, p. 1

- **15% of each state's public VR funds** must now be used for “pre-employment transition services” [§ 361.65(a)(3)]
  - Permitted to be provided to all “students with disabilities” regardless of whether they have applied for VR services. [§ 361.48(a)(1)]

# Pre-Employment Transition Services, p. 2

- Job exploration counseling
- Work-based learning experiences in integrated settings, in and out of school
- Counseling on post-secondary opportunities

# Pre-Employment Transition Services, p. 3

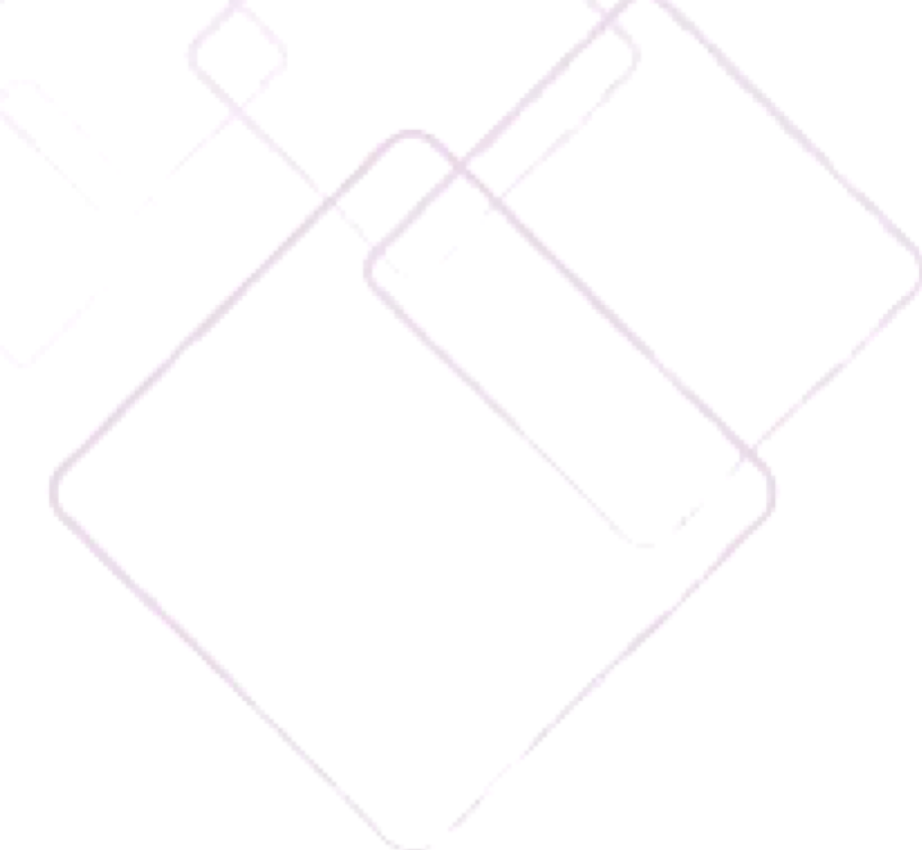
- Workplace readiness training
  - Social skills
  - Independent living skills
  
- Self-advocacy skills

# Mario

- Would he be eligible for pre-employment transition services?

# Bottom Line

- For students who have not received VR services while still in school, VR must determine eligibility and develop an IPE as soon as possible during transition but, at the latest, by the time the student leaves public school.
- Requiring IPE to be in place before student exits school is *essential* toward ensuring smooth transition process, one in which students do not suffer *unnecessary* delays in services and can continue the progress toward employment they began making while in school.



# Hearing and Appeal Rights



# Hearing and Appeal Rights

- Individual entitled to impartial due process hearing
- Possible second level of administrative review
- Appeal to state or federal court, very similar to IDEA
- Availability of Client Assistance Program (CAP)
  - If AT involved could also be an AT case for PAAT program

# NDRN Staff Contact Information

- Amy Scherer, Staff Attorney
  - [amy.scherer@ndrn.org](mailto:amy.scherer@ndrn.org)
  
- Ron Hager, Managing Attorney
  - [ron.hager@ndrn.org](mailto:ron.hager@ndrn.org)

# Disclaimer

- “The contents of this product was developed under a grant from the Department of Education, under ALN #84.246K. However, those contents do not necessarily represent the policy of the Department of Education, and you should not assume endorsement by the Federal Government.”