# **Supported Employment Critical Elements *(updated 11/2/21, sko)***

**The following is a listing of critical Supported Employment (SE) elements for use when agencies are considering SE Policy, Procedures and Training under WIOA. This resource was created by WINTAC as guidance to assist state VR agencies.**

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**What is the Supported Employment (SE) definition under WIOA?**

Competitive integrated employment, including customized employment; or employment in an integrated work setting in which an individual with a most significant disability is working on a short-term basis toward competitive integrated employment; and that is Individualized and customized, consistent with the individual’s unique strengths, abilities, interests, and informed choice, including with ongoing support services for individuals with the most significant disabilities. *(Section 7(38) of the Act and 34 CFR §361.5© (53) and 363.1(b).*

* All supported employment outcomes must be in an integrated setting with the additional expectation that individuals with most significant disabilities can and will achieve competitive wages.
* Employment in a non-integrated work setting does not meet the requirement for an employment outcome in supported employment.
* Employment in sheltered workshops and enclaves and group employment settings does not constitute supported employment.

Supported employment should not be considered automatically as the first choice for individuals with the most significant disabilities. The Supported Employment program exist to serve and assist individuals with the most significant disabilities who need intensive services and ongoing supports to achieve an employment outcome and should be considered after a comprehensive assessment of the rehabilitation needs of the individual when determining an individual’s employment goal.

# **Summary of Significant Changes to SE:**

WIO made several changes to Supported Employment, including requiring VR agencies to make extended service available to youth with the most significant disabilities through the use of Supported Employment program funds and/or VR program funds pursuant to section 604(b)(2). Other changes include:

1. Extending the time frame for the provision of supported employment services from 18 months to 24 months;
2. Requiring that supported employment be in competitive integrated employment or, if not in competitive employment, in an integrated work setting in which the individual is working toward competitive integrated employment on a short-term basis (defined later);
3. Requiring the availability of supported employment funds and/or VR program funds for providing extended services to youth with the most significant disabilities;
4. Requiring a reservation and disbursement of 50 percent of a State’s allotment under the Supported Employment program for the provision of supported employment services, including extended services, to youth with the most significant disabilities;
5. Requiring a State to provide not less than 10 percent nonfederal contribution for the 50 percent of the allotment reserved to serve youth with the most significant disabilities; and
6. Reducing the amount of funds that may be spent on administrative costs to 2.5 percent of the State’s Supported Employment program allotment.
7. States are authorized to use funds allotted under the Supported Employment program to provide supported employment services and to provide extended services to youth with the most significant disabilities for a period of time not to exceed four years, or until such time that a youth reaches the age of 25 whichever occurs first, thereby no longer meeting the definition of a “youth with a disability” *(Section 604(b) (2) of the Act and 34 CFR §363.4(a) (2), in 34 CFR §361.5(c) (58).*

# **Competitive Integrated Employment:**

Competitive integrated employmentmeans work that:

(a) Is performed on a full-time or part-time basis

(Including self-employment) and for which participant is compensated at a rate that–

(A) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 *(Section 29 U.S.C. 206(a)(1)) or the rate required under in the applicable State or local minimum wage law);*

(B) Is not less than the customary rate paid by the

employer for the same or similar work performed by other employees who are not participants with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and

(C) In the case of participant who is self-employed,

yields an income that is comparable to the income received by other participants who are not participants with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(D) Is eligible for the level of benefits provided to other employees; and

(b) Is at a location--

(A) Typically found in the community; and

(B) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors), who are not participants with disabilities (not including supervisory personnel or participants who are providing services to such employee) to the same extent that employees who are not participants with disabilities and who are in comparable positions interact with these persons; and

(C) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not participants with disabilities and who are not participants with disabilities and who have similar positions.

*REF: WIOA Rule 361.5(c)53*

**Job stabilization**

* Is the point where transfer to extended, long term support provided by other than VR (or by VR in limited circumstances with youth) or to natural supports ideally happens.
* Stabilization in employment shall be part of the conversation from the beginning of IPE development so that everyone on the team understands and recognizes job stabilization for participant. The team, recognizing that stabilization in employment is close, can facilitate timely transfer to extended services.

**Short-Term Basis**

For purposes of supported employment, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment (i.e. specifically competitive wages in this case), as defined in 34 CFR 361.5(c) (9), is considered to be working on a short-term basis toward competitive integrated employment so long as below conditions are met:

The individual can reasonably anticipate achieving competitive integrated employment within 6 months of achieving a supported employment outcome. In limited circumstances, the short-term basis may be extended an additional 6 months, for a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual and the individual has demonstrated progress toward competitive earnings based on information contained in the services record.

The 6 month short term basis period, and the additional six months that may be available in limited circumstances, begins after an individual has completed up to 24 months of supported employment services (unless a longer period of time is necessary based upon the individual’s need) and the individual has achieved a supported employment outcome, meaning the individual is stable in supported employment placement for a minimum period of 90 days following the transition to extended services.

Policies should explain that Supported Employment includes short-term basis only when an individual is employed in an integrated setting and working towards competitive integrated employment. Policy should reflect:

The individual must “reasonably” anticipate being able to achieve competitive integrated employment within 6 months of the supported employment outcome, or in limited circumstances, within 12 months if,

* The individual has demonstrated progress towards achieving competitive earnings,
* A description of the relevant circumstances is documented in the individual’s service record.
* When a participant chooses to take a supported employment position that pays lower than local comparable wages and benefits on a short term basis: In order for the VR counselor to accept the placement, the following shall occur:
  + The job developer and/or job coach work with participant to create, as part of the Retention Plan, a written plan to increase per hour salary and/or benefits; and
  + The employer agrees with the plan; and
  + The case record must contain documentation of planning, monitoring of the plan, and agreements made between the VR counselor, participant and the employer.
* Policies should note the need to develop documentation and justification strategies relative to the need to extend the short-term basis period.

# **“Who is Eligible for (SE) Services?”** *(Section 34 CFR § 363.3)*

A State may provide services under this part to any individual, including a youth with a disability, if -

(a) The individual has been determined to be -

(1) Eligible for vocational rehabilitation services in accordance with [34 CFR 361.42](https://ecfr.federalregister.gov/on/2021-04-28/title-34/section-361.42); and

(2) An individual with a most significant disability;

(b) For purposes of activities carried out under § 363.4(a)(2), the individual is a youth with a disability, as defined in [34 CFR 361.5(c)(59)](https://ecfr.federalregister.gov/on/2021-04-28/title-34/section-361.5#p-361.5(c)(59)), who satisfies the requirements of this section; and

(c) Supported employment has been identified as the appropriate employment outcome for the individual on the basis of a comprehensive assessment of rehabilitation needs, as defined in [34 CFR 361.5(c)(5)](https://ecfr.federalregister.gov/on/2021-04-28/title-34/section-361.5#p-361.5(c)(5)), including an evaluation of rehabilitation, career, and job needs.

*(Authority: Section 605 of the Rehabilitation Act of 1973, as amended;*[*29 U.S.C. 795*](https://www.govinfo.gov/link/uscode/29/795)*j)*

# **SE target population**

The Supported Employment program serves individuals with the most significant disabilities, including youth with the most significant disabilities;

* For whom competitive integrated employment has not historically occurred, **or**
* For whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability, and who,
* Because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the VR agency in order to perform the work involved.

The time frame for the provision of supported employment services has been extended from 18 months to no longer than 24 months, unless, under special circumstances, the eligible individual and staff have jointly agreed to extend the time to achieve the employment outcome identified in the IPE.

Eligibility must be determined within 60 days after application

1. Participant’s IPE must be completed within 90 days after eligibility determination
2. VR counselor/individual agree to an extension of the 90-day timeframe to a specific date of completion
3. Agency must verify extension is warranted based on the particular circumstances/needs of individual
4. Extensions must not cause unnecessary delays in providing services:

# **Are Authorized SE Services Identified and Defined?**

States are authorized to use funds allotted under the Supported Employment program to provide supported employment services and to provide extended services in accordance with the requirements in section 604(b) (2) of the Act and 34 CFR §363.4(a) (2), to youth with the most significant disabilities for a period of time not to exceed four years, or until such time that a youth reaches the age of 25, thereby no longer meeting the definition of a “youth with a disability” in 34 CFR §361.5(c) (58), whichever occurs first.

In accordance with the VR services portion of the Unified or Combined State Plan and section 101(a) (22) of the Act, a VR agency may provide supported employment services or discrete post-employment services using funds made available through the VR program allotment for an individual who is eligible under the Supported Employment program.

In addition, funds allotted under the Supported Employment program or the VR program may be used to provide extended services to youth with the most significant disabilities as authorized under section 604(b)(2) of the Act.

However, extended services may not be provided by the VR agency using funds allotted under either the Supported Employment program or the VR program to an individual who is not a youth with a disability. See sections 604(b) (1) and 608 of the Act and 34 CFR 363.4(b) and (c).

# Supported Employment Services and Ongoing Support Services…

* Prior to job placement in supported employment, individuals with the most significant disabilities receive VR services identified in the IPE, and which the VR counselor and the individual have determined will lead to achievement of the supported employment outcome.
* Supported Employment services, also identified on the IPE, begin at the time of the individual’s job placement.
* “Supported Employment Services” in 34 CFR 361.5(c)(54) specifically references ongoing support services, which are furnished by the VR agency from the time of job placement until transition to extended services including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment and that are organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment.
* Supported employment services are based on a determination of the needs of an eligible individual as specified in the individualized plan for employment (IPE), and are provided by the VR agency for a period of not more 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.
* They also may include post-employment services, if these services are required from the VR agency because they are unavailable from an extended services provider and are necessary to maintain or regain the job placement or advance in employment.
* Under the Act, the time frame for the provision of supported employment services, has been extended 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 the services and supports necessary to achieve an employment outcome in supported employment either in competitive integrated employment or working in an integrated setting on a short-term basis to achieve competitive integrated employment.
* The definition of “supported employment services” in 34 CFR §361.5(c) (54) specifically references “ongoing support services,” which are defined in 34 CFR §361.5(c) (37) and are furnished by the VR agency from the time of job placement until transition to extended services.
* Ongoing support services are services identified based on a determination by the VR agency of an individual’s need as specified in the IPE, and that are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment.
* Ongoing services are furnished by the VR agency, using funds under the Supported Employment program and/or the VR program, from the time of job placement until the transition to extended services, and thereafter by one or more extended services providers, including the VR agency, throughout the individual’s term of employment in a particular job placement. The exception is for youth as noted above, when VR can cover their extended services until youth turn 25 or for a 48 month period whichever comes first.
* However, the VR agency may also provide post-employment services following transition to extended services using funds made available under the VR program, if they are necessary to maintain or regain the job placement or advance in employment and are unavailable from an extended services provider, other than the VR agency.
* Ongoing support services may include activities such:
  + As an assessment of employment stability and the provision or coordination of specific services at or away from the worksite that are needed to maintain stability, including supplementary assessments of rehabilitation needs,
  + The provision of skilled job trainers for the individual at the worksite,
  + Social skills training,
  + Follow-up services,
  + Facilitation of natural supports at the worksite, and other applicable services defined within the scope of services in 34 CFR §361.48(b).

# **Monitoring and Managing Progress of the IPE….**

* Supported Employment services are all services provided between placement and stabilization. This includes all necessary training and job stabilization activities that occur between placement on a job and transition to extended and/or natural support.
* Participant need and the time it takes that participant to reach job stabilization are used to determine how long VR provides the services.
* The VR counselor and participant define stabilization and jointly decide on length of Supported Employment Services.
* This information and any agreed on changes SHOULD BE documented.

VR agencies may use supported employment program or VR Funds to provide extended services only to youth with the most significant disabilities- not to individuals with the most significant disabilities who are not youth – for a period not to exceed four years or until such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability.

# **Extended services for “youth with the most significant disabilities”**

“Extended services,” as defined in 34 CFR §361.5(c)(19), means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability in supported employment.

New provision mandating the VR agency to fund extended services for youth with the most significant disabilities allows additional time for individuals with the most significant disabilities to receive services and supports necessary after the individual has obtained a placement either in competitive integrated employment or working on a short term basis towards competitive integrated employment.

* Explore and develop necessary contracts for CRPs throughout the state which are available for the provision of extended services.
* Develop an appropriate fee schedule for services which can be consistently applied to CRPs.
* VR agencies may use supported employment program or VR funds to provide extended services only to youth with the most significant disabilities—not to individuals with the most significant disabilities who are not youth—for a period not to exceed four years or until such time that a youth reaches the age of 25 and no longer meets the definition of a “youth with a disability.”
* Natural supports (support of employer, supervisor of employee, co-workers, family members, mentors, and teachers) can often be the ongoing support needed to maintain an individual with the most significant disability in supported employment after Federal, State or non-profit support ends. For that reason, explore all options and discuss extended services with “natural supports” while during planning.
* Extended services must be organized and made available, singly or in combination, in such a way as to assist an individual in maintaining supported employment; based on needs specified in the IPE; provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource after an individual has made the transition from support from the VR agency; and, in the case of a youth with a most significant disability, provided by the VR agency in accordance with requirements in section 604(b)(2) of the Act and 34 CFR §363.4(a)(2), and as described in 34 CFR §361.5(c)(19)(v).
* The transition to extended services begins after all supported employment services are complete.
* VR agencies must make extended services available to youth with the most significant disabilities with funds available under the Supported Employment program based upon the individual needs of the youth. Read together, sections 603(d) and 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.
* Furthermore, section 604(b) (2) of the Act permits VR agencies to use title I VR funds to pay for extended services to youth with the most significant disabilities. The regulations in 34 CFR §§361.5(c) (19) (v) and 363.4(a) (2) clarify that extended services may be provided for a period of up to four years or until such time that a youth reaches the age of 25, and, thus, no longer meets the definition of a “youth with a disability” under 34 CFR §361.5(c) (58), whichever occurs first.
* Therefore, a youth may no longer be eligible to receive extended services provided by the VR agency with funds allotted under the Supported Employment program or the VR program if the individual no longer meets age requirements established in the definition of a “youth with a disability” in 34 CFR §361.5(c)(58);or
  + - Has received extended services for a period of four years; or
    - Has transitioned to extended services provided with funds other than those allotted under the VR program or Supported Employment program prior to meeting the age or time restrictions.
* Once a youth reaches age 25 or his or her four year limit of extended services provided by the Supported Employment or VR program, under 34 CFR §363.53(b)(2)(ii), the VR agency must identify another source of extended services to ensure that there will be no interruption of services.
* The VR agency may not provide extended services to a youth with the most significant disability who has not received services from the VR agency through an IPE simply because he or she meets the definition of a “youth with a disability” and is in need of extended services.
* To be eligible for supported employment services, including extended services, a youth must meet the requirements of section 605 of the Act and 34 CFR §363.3 of the regulations, which include being determined eligible for VR services. It should be noted that WIOA did not amend title VI of the Rehabilitation Act to allow VR agencies to fund extended services to individuals with the most significant disabilities who are not youth with significant disabilities using Supported Employment or VR program funds (34 CFR §§361.5(c)(19)(v) and 363.4(b)).

# **Before closure**

VR must have completed their plan to implement natural supports or have facilitated participant’s access to long term extended services by other than VR.

**Extended services by other than VR:** The case file remains open for at least 90 days after transfer to long term extended services funded by other than VR.

**Natural supports:** The Job Developer/job coach shall be requested to provide information about the natural supports that have been developed to help the participant maintain employment.

**That information shall be provided to the agency that provides case management/services (i.e., Brokerage, CDDP, MH center).** The intent of this information is to assure that ongoing management of natural supports extends beyond the participant’s exit from VR.

# **Supported Employment Closures**

* At closure VR documents all issues normally covered in a general program successful closure with these additions:
  + Describes the community-based employment situation (type of work, designated employer issuing the paycheck, weekly hours, wage per hour and level of benefits).
  + The level and adequacy of ongoing, follow-along support.
  + A comprehensive summary of participant's service needs after closure that:
    - Identifies specific services the ongoing support agency will provide;
    - Determines the need for and appropriateness of rehabilitation post-closure VR services.
    - Must document that VR counselor and participant agree that no more employment services are needed.

# **Closure in Special Circumstances:**

If a participant who worked for a short term basis in integrated but not competitive employment makes an informed choice to keep the job and does not increase pay and/or benefits to meet the salary and benefits of other employees, The file would be closed as **other than rehabilitated** (they are employed but not in competitive and integrated employment).

Closure when VR funded extended services for a youth (16-24 years old):

In no instance can VR provide extended services beyond 4 years and past participant’s age of 24.

If an individual with a most significant disability loses a job prior to achieving an employment outcome, he or she may continue to receive VR services that will lead to another placement in supported employment. After placement, he or she may receive supported employment services to assist in achieving a supported employment outcome.

Similarly, for an individual with a most significant disability who has achieved a supported employment outcome and subsequently loses his or her employment, prior to closure of the service record, the individual may receive VR services that will assist in finding another placement, after which additional supported employment services may be provided to enable him or her to achieve a supported employment outcome.

For an individual with a most significant disability who has lost a job following the achievement of an employment outcome and whose service record has been closed, he or she may apply to the VR agency for services again.

Additionally, following transition to extended services, an individual with a most significant disability may receive post-employment services identified in the IPE that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

# **Important controls for fiscal and data purposes:**

Policy based controls are necessary to ensure the accurate completion of all required forms, including financial reports that show the reservation and use of supported employment funds for the intended purpose and population, as well as to

Ensure that the supported employment data reported in the RSA-911 is congruent with the active IPEs with the goal of supported employment.

Policies must include required steps (internal controls) a VR counselor must follow during the short-term basis period.

Policy should indicate the process for documenting the individual’s progress toward competitive integrated employment.

Policy should describe how to code in the case management system for reporting, tracking, and financial accountability of reserved funds.

# **Reporting Requirements for RSA-911**

There are a number of Data Elements in the RSA-911 Case Service Report ([PD 19-03](https://www2.ed.gov/policy/speced/guid/rsa/subregulatory/pd-19-03.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=)) that are specific to Supported Employment Services. State VR Agencies need to understand when and how to use these DE when accurately reporting SE services in the quarterly RSA-911 submissions. Some of those DE are listed below. For more information on accurate tracking and reporting of SE services in the RSA-911, please visit the WINTAC website to access [this training](http://www.wintac.org/topic-areas/transition-common-performance-accountability-system/training#case-service).

* **Data Element 45:** Significant of Disability
  + Code 2 = Individual is most significantly disabled
* **Data Element 49:** Supported Employment Goal on the IPE
* **Data Elements 254-260:** Supported Employment Services
* **Data Element 354:** Type of Exit
  + Code 6 = Individual exited after a signed IPE in competitive and integrated employment or supported employment
* **Data Element 355:** Reason for Program Exit (multiple SE options)
  + Code 14 = Achieved Competitive Integrated Employment Outcome (Successful SE Outcome)
  + Code 16 = Individual has received VR Services, but requires long-term extended services for which no long-term source of funding is available.
  + Code 20 = Short Term Basis Period: The individual achieved supported employment in integrated employment, but did not earn a competitive wage after exhausting the short-term basis period
* **Data Element 356:** Employment Outcome at Exit
  + Code 5 = Supported Employment in Competitive Integrated Employment

# **Eliminate or update terminology in existing policy that is no longer relevant:**

Clubhouse Model: Revise previous definitions for the “Clubhouse model” by referencing “Transitional employment” as a workplace learning activity – as opposed to an employment outcome in supported employment comprised of a series of temporary job placements.

# **Have the following WIOA Changes been addressed?**

* Extending the time frame for the provision of Supported Employment Services from 18 months to 24 months?
* Requiring that supported employment be in competitive integrated employment or, if not, in competitive employment, in an integrated work setting in which the individual is working toward competitive integrate employment on a short-term basis.
* Requiring a state to reserve and expend 50 percent of the allotment under the Supported Employment program for the provision of supported employment services. Including extended services to youth with the most significant disabilities
* Requiring a state to provide not less than a 10 percent non-Federal contribution for the 50 percent of the allotment reserved to serve youth with the most significant disabilities and
* Reducing the amount of funds that States may spend on administrative costs to 2.5 percent from the State’s Supported Employment program allotment.

Resources:

1. [Regulation implementing the Rehabilitation Act of 1973, as amended by the WIOA, an RSA website](http://www2.ed.gov/about/offices/list/osers/rsa/wioa/state-supported-employment-services-program.pdf%20) (Regional Training Series on SE from RSA)
2. [Frequently Asked Questions about Supported Employment (RSA)](https://www2.ed.gov/programs/rsasupemp/program-faq.html), May 2017
3. [Copy of WIOA Supported Employment Regulations via the Federal Register](https://www.federalregister.gov/documents/2016/08/19/2016-15980/state-vocational-rehabilitation-services-program-state-supported-employment-services-program)
4. [RSA's Change Regarding the Administration of State SE Services Grant Award Beginning in FFY 2018](http://wintac-s3.s3-us-west-2.amazonaws.com/topic-areas/ta03_IntCompetEmpl/RSA-Change-FFY2018.pdf)
5. [A copy of WIOA Legislation](https://www.gpo.gov/fdsys/pkg/PLAW-113publ128/pdf/PLAW-113publ128.pdf)