

STATE INTERAGENCY AGREEMENT  
BETWEEN  
CALIFORNIA DEPARTMENT OF EDUCATION  
AND  
CALIFORNIA DEPARTMENT OF REHABILITATION

TRANSITION PLANNING AND STUDENT SERVICES FOR SECONDARY  
STUDENTS WITH DISABILITIES

2018

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AND

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WITH DISABILITIES

**APPROVALS**

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# **I. PURPOSE**

## **A. Preamble**

The Individuals with Disabilities Education Act (IDEA)<sup>1</sup> and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), require State Educational Agencies (SEA) and Vocational Rehabilitation (VR) agencies to plan and coordinate transition services, as well as pre-employment transition services (a.k.a. Department of Rehabilitation (DOR) Student Services) for students with disabilities through a formal interagency agreement (Section 612(a)(12) of the IDEA and Section 101(a)(11)(D) of the Rehabilitation Act). Additional references used in this document include Sections 113 and 511 of the Rehabilitation Act, and the Final Regulations: State VR Services Program; State Supported Employment Services Program; and Limitations on Use of Subminimum Wage. These references, together with federal and state statutes and regulations, direct the need for interagency collaboration and shared responsibilities to increase opportunities for successful transition to adult life and employment for all students with disabilities.

## **B. Purpose**

The purpose of this interagency agreement is to create a coordinated system of educational and VR services, including DOR Student Services, for students with disabilities to facilitate a smooth transition from secondary education to post-secondary employment-related activities and competitive integrated employment.

This agreement serves as a mechanism for DOR, the California Department of Education (CDE) and, as appropriate, local educational agencies (LEAs) to clearly specify the plans, policies, and procedures for coordinating services to facilitate the transition of students with disabilities, including:

- DOR Student Services.
- Consultation and technical assistance to assist LEAs in planning for the transition of students.
- Transition planning by DOR and educational personnel that facilitates the development and implementation of a student's Individualized Education Program (IEP) and timely

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<sup>1</sup> IDEA legislation is codified in United States Code, Title 20, (20 USC), Section 1400 et. seq. All citations in this agreement pertaining to IDEA are quoted from United States Code.

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- development of a VR Individualized Plan for Employment (IPE), as appropriate.
- Outreach to and identification of students with disabilities and assessment of their potential need for transition services and DOR Student Services.
  - Documentation requirements set forth in section 511 of the Rehabilitation Act regarding students with disabilities who are seeking subminimum wage employment.
  - Assurance that neither the CDE nor the LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for operating a program under which a youth with a disability is engaged in work at a subminimum wage.
  - Criteria for determining and assigning the financial and programmatic roles and responsibilities of each agency for the provision of DOR Student Services and transition services to students with disabilities.
  - Grievance procedures to resolve disputes between DOR, the CDE, or LEA, as appropriate, as well as procedures to resolve disputes between an individual with a disability and the entities specified above, and procedures to provide information about the Client Assistance Program.<sup>2</sup>

The agreement identifies state-level policies and procedures, which shall be coordinated to provide a seamless delivery of transition services. The Appendix A Local Interagency Agreement (IA) Template, is an appendix of this state-level formal IA and defines the policies and/or procedures LEAs and DOR districts will use to create a coordinated system of educational and VR services at the local level for students with disabilities to facilitate a smooth transition from secondary education to post-secondary employment-related activities and competitive integrated employment.

For the purposes of this agreement, interagency cooperation and collaboration for transition planning and services will be focused on students with disabilities who are enrolled in

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<sup>2</sup> The purpose of the Client Assistance Program (CAP) is to establish and carry out CAPs that:

(a) Advise and inform clients and client-applicants of all services and benefits available to them through programs authorized under the Rehabilitation Act of 1973, as amended (Act), including activities carried out under sections 113 and 511.

(b) Assist and advocate for clients and client-applicants in their relationships with projects, programs, and community rehabilitation programs providing services under the Act.

(c) Inform individuals with disabilities in the State, especially individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs, of the services and benefits available to them under the Act and under title I of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12111 *et seq.*).

(Authority: Section 112(a) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 732(a)) (34 CFR 370.1)

secondary school programs and are potentially eligible or eligible for services from the DOR. This includes students with disabilities who are served under the IDEA, regardless of where services are provided, and students with disabilities served in general secondary instructional programs and who are not served under IDEA. As used in this agreement, secondary schools include, but are not limited to, high schools, state special schools, certified nonpublic schools, CDE recognized charter schools, court schools, private or parochial schools, technical schools, adult schools and home school and alternative school programs (e.g. those housed within the foster care or juvenile justice system).

## **C. Values**

The CDE and the DOR agree to these underlying values to guide transition planning and services for individuals with disabilities:

- All individuals have the right to be treated with dignity and respect.
- All individuals, regardless of the extent of their disability, have the right to live, work, and participate in leisure activities.
- Transition planning is a lifelong process that begins at an early age.
- All individuals will be active participants in determining their personal life and work goals, objectives, and services.
- The student and the student's family are a primary source of information regarding the student's needs, goals, and services.
- Services should be individualized, person-driven, and of high quality, designed according to individual needs, strengths, interests, and personal choice.
- Services should always be provided in the least restrictive environment, emphasizing personal growth and integration of individuals with disabilities.
- All students/consumers should receive appropriate services through the careful coordination of available resources of each participating agency.
- Comprehensive coordinated interagency planning must occur between schools, and related services at the national, state, regional, and local levels if these values are to be translated into meaningful outcomes for young persons with disabilities.

Successful transition is built not only upon high-quality specialized services, but upon the use of generic community services, supports, and resources as well.

## **II. DEFINITIONS**

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Conditions covered in this agreement apply to all California secondary students with disabilities who are potentially eligible or eligible for services from the DOR.

## **A. Target Populations**

### **1. Student Receiving Special Education Services**

This includes secondary students, ages from 16 up to 22, who have a disability pursuant to United States Code (20 USC Section 1401(3)(A)(i)) and who, because of the disability, need special education and related services as specified in their IEP. Under IDEA, eligible students have one or more of the following disabilities: intellectual disability, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason thereof, need special education and related services (20 USC Section 1401(3)(A)(i) and (ii)). Special education eligibility is based on assessment data from a variety of sources and the determination by the IEP team, a group of persons that includes those knowledgeable about the student and qualified to interpret the meaning of the evaluation data and placement options. Assessment activities for an individual student are conducted by qualified persons in accordance with specific federal and state requirements (California Education Code sections 56320, 56322, 56323, 56324, 56327, and 56341; California Code of Regulations (CCR), Title 5, Sections 3023 and 3030). This target group includes students enrolled in general or alternative public school programs, state special schools, certified nonpublic schools, court schools, home school and private or parochial schools, regardless of where the services are provided.

### **2. Student with a Disability**

Student with a disability is defined as an individual who meets the following criteria:

- Is not younger than 16 or older than 21 years (has not reached 22nd birthday).<sup>3</sup>
- Is in secondary, postsecondary, or other recognized education program, including independent study and alternative school programs.
- Is one or more of the following:
  - Eligible for, and receiving, special education or related services under the Individuals with Disabilities Education Act (IDEA).

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<sup>3</sup>This age range is consistent with guidelines provided in the IDEA (20 U.S.C. 1414(d)(1)(A)(i)(VIII)) and the California Education Code (section 56341.5(e)), which state that transition services are to be included in the IEP by the time the student is 16 years of age.

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- o An individual with a disability for purposes of Section 504 of the Rehabilitation Act.

Note: An individual who is deemed to meet the definition of a student with a disability for purposes of section 504 of the Act is not required to be receiving services under that section.

### **3. Potentially Eligible Student with a Disability**

Potentially eligible pertains to students receiving or in need of DOR Student Services regardless of whether they have applied for or been determined eligible for the VR program.

### **4. Youth with a Disability**

A youth with a disability is defined as an individual with a disability who is not younger than 14 or older than 24 years.

A youth with a disability may or may not be enrolled in school and includes those who may have left or “aged out” of high school.

There is no requirement that a “youth with a disability” be participating in an education program. This category may include out-of-school youth as well as at-risk, unserved, and underserved populations, including but not limited to youth in the child welfare/foster care or juvenile justice system.

### **5. Students with Disabilities Who Are Not Served by Special Education**

Students with disabilities not served under special education include secondary students who are considered an individual with a disability pursuant to Section 504 of the Rehabilitation Act as amended by WIOA and Americans with Disabilities Act, and who may be receiving services and/or accommodations as required by Section 504. This also includes students who meet the definition of a student with a disability under Section 504 but are not receiving services under that section. These students with disabilities are not receiving special education services and, therefore, do not have an IEP. If the student’s disability constitutes or results in a substantial impediment to employment, the student is most likely to be eligible for DOR services. This population includes transitioning secondary students with disabilities enrolled in public programs for general education, alternative education, and adult education.

## **B. Other Related Definitions**

### **1. DOR Student Services**

The WIOA requires a VR agency to reserve no less than fifteen percent of its federal VR grant funds to provide or arrange for the provision of pre-employment transition services, known in California as DOR Student Services, to students with disabilities in collaboration with the CDE and LEAs.

DOR Student Services are not meant to replace the responsibilities of school systems under the special education laws. They are meant to augment and enhance those services already being provided. The DOR Student Services should start at age 16 or later based on the identified needs of the student.

DOR Student Services are designed to be an early start at job exploration for students with disabilities and should enrich, not delay, transition-planning, application to the VR program, and the continuum of VR services necessary for movement from school to post-school activities.

DOR Student Services consist of five required activities that must be made available to all students with disabilities in the state who need them, and four coordination activities that must be carried out. The DOR may provide the nine authorized services listed under 34 Code of Federal Regulations (CFR) 361.48(a)(3) to improve the transition of students with disabilities from school to postsecondary education or an employment outcome.

### **Required Activities**

The five “required” DOR Student Services, described in section 113(b) of the Act and 34 CFR 361.48(a)(2) of the VR regulations, may be provided to individuals in a group setting, or on an individual basis. All five required areas must be available to students statewide; however, the provision of each service must be based on the need of the individual student. The five required areas are:

#### **1. Job Exploration Counseling:**

This category of service is intended to provide counseling and guidance to help students explore career options. Career counseling can be offered in a variety of settings including groups and individually, in person or by means of digital communication. Job exploration options are intended to foster motivation, consideration of opportunities and informed decision-making.

#### **2. Work-based Learning Experiences:**

Work-based learning is an educational approach that uses the workplace or real work to provide students with the knowledge and opportunities that will help them connect school experiences to real-life work activities and future career opportunities.

Work-based learning may include in-school or after-school opportunities or experiences outside the traditional school setting (including internships) and must be provided in an integrated environment in the community to the maximum extent possible.

**3. Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Educational Programs:**

This activity area includes exploration of post-high school transition programs at institutions of higher education, trade and vocational schools, as well as two and four-year colleges.

**4. Workplace Readiness Training:**

Workplace readiness training is designed to develop social skills. Independent Living Workshops/job clubs on social skills include financial literacy, workplace behavior and interaction, multicultural awareness, and problem-solving skills. These services are designed to develop independent living and social skills necessary for a student to be successful in employment.

**5. Instruction in Self-Advocacy:**

Self-advocacy instruction provides student with opportunities to learn about rights, responsibilities and how to request accommodations, services or supports students may need to successfully complete the transition from secondary to postsecondary education and/or employment. These experiences may include mentoring by peers working in competitive integrated employment.

**Coordination Activities**

DOR Student Services coordination consists of:

1. Attending IEP meetings for students with disabilities, when invited.
2. Working with the local workforce development boards, America's Job Centers of California (AJCCs), and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships.
3. Working with schools, including those carrying out activities under section 614(d) of the IDEA, to coordinate and ensure the provision of DOR Student Services.
4. When invited, attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). These are typically individual program plan meetings with regional centers for individuals who are eligible for services provided by the Department of Developmental Services.

**Authorized Activities**

The DOR may provide the following to improve the transition of students with disabilities from school to postsecondary education or an employment outcome:

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1. Implement effective strategies that increase independent living and inclusion in their communities and competitive integrated workplaces.
2. Develop and improve strategies for individuals with intellectual and significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment.
3. Provide training to vocational rehabilitation counselors, school transition staff, and others supporting students with disabilities.
4. Disseminate information on innovative, effective, and efficient approaches to implement DOR Student Services.
5. Coordinate activities with transition services provided by LEAs under IDEA.
6. Apply evidence-based findings to improve policy, procedure, practice, and the preparation of personnel.
7. Develop model transition demonstration projects.
8. Establish or support multistate or regional partnerships that involve States, LEAs, designated State units, developmental disability agencies, private businesses, or others.
9. Disseminate information and strategies to improve the transition to postsecondary activities of those who are traditionally unserved.

### **How are DOR Student Services Different than VR Services**

DOR Student Services are available immediately to potentially eligible students and do not require an application of VR services, a determination of VR eligibility or development of an IPE. Unlike VR services, DOR Student Services are specific, targeted pre-employment transition services that do not necessarily presume the attainment of an employment outcome. It is therefore presumed that many potentially eligible students with disabilities will benefit from DOR Student Services while only some will require more comprehensive VR services.

DOR Student Services must be made available to all California students with disabilities in need of such services. The DOR has a variety of mechanisms to provide DOR Student Services to students on or off school campus, including the following:

- Dedicated VR staff may directly provide DOR Student Services to students with disabilities who are not participating in a Transition Partnership Program (TPP).
- TPP school staff may provide DOR Student Services within the scope of their TPP contract through a DOR/LEA third party cooperative arrangement.
- LEAs may provide DOR Student Services.
- Service providers, including but not limited to community rehabilitation programs and AJCCs may provide DOR Student Services.

## **2. DOR Eligible Individual**

A DOR eligible individual, also known as a “consumer” or “participant”, is an individual having a disability pursuant to the Rehabilitation Act, and the individual shall require VR services to prepare for, secure, retain, advance in or regain employment (The Rehabilitation Act, Section 102(a)(1)(B)). The Act specifies that the individual have a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment and can benefit in terms of an employment outcome from VR services (The Rehabilitation Act, Sections 7(20), 7(21), and 102(a)(3)).

## **3. Transition Services**

Under the IDEA, Transition Services means a coordinated set of activities for a student or youth with a disability that:

- Are designed within an outcome oriented process that is focused on improving academic and functional achievement to facilitate movement from school to post-school activities, including postsecondary education, vocational education, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation.
- Are based upon the individual student’s or youth’s needs, taking into account the student’s or youth’s strengths, preferences, and interests.
- Include instruction related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

In addition, under the Rehabilitation Act, Transition Services for a student or youth with a disability:

- Promote or facilitate the achievement of the employment outcome identified in the student’s or youth’s IPE.
- Include outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability. (Authority: Section 103(a)(19) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(15) and 20 USC 1401(34)).

## **4. Individualized Plans**

Individualized Education Program (IEP): As defined by United States Code (20 USC Section 1414(d)(1)(A)(i)), “The term ‘individualized education program’...means a written statement for each child with a disability that is developed, reviewed, and revised” in any meeting by a

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representative of the LEA or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child. The IEP for each student, beginning not later than age 16 (and at a younger age, if determined appropriate), must include a statement of transition services as defined in the 34 CFR 300.321, including, if appropriate, a statement of each public agency's and each participating agency's responsibilities before the student leaves the school setting.

When the purpose of the IEP meeting is the consideration of transition services for a student, the LEA shall invite the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services. If the student does not attend, the LEA shall take other steps to ensure that the student's preferences and interests are considered. (20 USC Section 1414(d)(1)(B); 34 CFR 300.321)

Individualized Plan for Employment (IPE): Defined by the Rehabilitation Act of 1973, as amended by WIOA (Section 101(a)(9)(A)), an IPE will be developed for each individual with a disability eligible for VR services meeting the requirements under this Act. The IPE is designed to achieve the specific employment objective of the individual as well as addressing both intermediate and long-term goals and services to be provided to assist in meeting the specific objective. The IPE shall include a description of the specific employment outcome, that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible

individual, consistent with the general goal of CIE<sup>4</sup> (except that in the case of an eligible individual who is a student or youth, the description may be a description of the student's projected post-school employment outcome (34 CFR 361.46(a)(2)(ii)) (The Rehabilitation Act, Section 102(b)(3)). Such VR services will be provided in accordance with the provision of the IPE. An IPE shall be agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and approved and signed by qualified VR counselor employed by the DOR, Section 102(b)(3)(C). An IPE must be completed for each eligible secondary student with a disability before the student leaves the school system or within 90 days of eligibility determination, whichever occurs first (Authority: Sections 12(c), 101(a)(11)(D), 101(c), and 511 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(a)(11)(D), 721(c), and 794(g), 34 CFR 361.22 (a)(2))

## **5. Adult Education**

Adult education is a defined part of the California secondary school system. This State provides general fund support for a comprehensive adult education delivery system for the following program areas: Adult Literacy/High School Diploma, English as a Second Language/Citizenship, Adults with Disabilities, Career Technical Education/Apprenticeships, Parenting, Family, and Consumer Awareness, and Older Adults. Adult education provides lifelong educational opportunities and services to adult learners. These opportunities and services are to address the unique needs of individuals and communities by providing adults with the knowledge and skills necessary to participate effectively as citizens, workers, family members, and consumers of goods and services. Adult education recognizes the need for

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<sup>4</sup> Competitive Integrated Employment (CIE) is defined as work that is performed on a full-time or part-time basis (including self-employment) –

A. For which an individual:

- o Is compensated at a rate that shall be not less than the higher of the rate specified in section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. § 206 (a)(1)) or the rate specified in the applicable state or local minimum wage law; and is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.
- o In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.
- o Is eligible for the level of benefits provided to other employees.

interagency coordination and support to strengthen its services to individuals throughout the state. As students transition to adult service agencies, Adult Education may be a resource for training for the exited high school youth.

## **6. Assistive Technology Devices and Services**

Both IDEA and the Rehabilitation Act, as amended by WIOA, use the same definition for assistive technology device and service as that contained in the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (29 U.S.C. 2202(2)). Assistive technology device and service are defined as follows (Assistive Technology Act of 2004, sections 3(a)(2) and (3)):

- Assistive technology device: any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capacities of individuals with disabilities.
- Assistive technology service: any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

## **7. Related Laws**

While the focus of this interagency agreement between the CDE and DOR is to coordinate the provisions of transition services and DOR Student Services to secondary students with disabilities as prescribed by the Rehabilitation Act as amended by WIOA, other related pieces of legislation also require compliance by these two agencies in the provision of services to students with disabilities: 1) Individuals with Disabilities Education Act; 2) the Americans with Disabilities Act; and 3) the Carl D. Perkins Vocational and Applied Technology Education Act. A discussion of these laws is as follows:

- **The Rehabilitation Act as Amended by the WIOA in 2014**

On July 22, 2014, the WIOA was signed into law. The WIOA amended the Rehabilitation Act of 1973 and replaced the Workforce Investment Act of 1998. The greater goal of the WIOA is to improve job training collaborations and strengthen the workforce development system for the jobs of today as well as tomorrow.

The purpose of the WIOA is to increase, particularly for those individuals with barriers to employment, access to and opportunities for the employment, education, training, and support services to succeed in the labor market.



The WIOA emphasizes the provision of services to students and youth with disabilities to ensure that they have meaningful opportunities to receive the services, including training and other supports, they need to achieve employment outcomes in competitive integrated employment.

- **Individuals with Disabilities Education Act**

In 2004, Congress reauthorized IDEA in P.L. 108-446. This federal law requires that a free appropriate public education be provided which emphasizes special education and related services designed to meet the individualized needs of each student with a disability between the ages of three and twenty-one, inclusive. (Refer to Section II.A.1. “Special Education Student” as described in the Disability Definitions)

- **Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended by WIOA**

Both the CDE and the DOR are subject to the mandates of ADA (P.L. 101-336) and Section 504 (P.L. 93-112), which require the operation of programs accessible to and usable by individuals with disabilities. The ADA and Section 504 work in concert with other state and federal laws affecting the education of students with disabilities. In some instances, there will be duplicative coverage and an individual situation will be covered by more than one law.

- **Career-Vocational Education and the Carl D. Perkins Vocational and Applied Technology Education Act**

Career-Vocational Education is funded, in part, by the federal Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (P.L. 101-392). This Act sets forth requirements for vocational programs to be responsive to the needs of special populations (which includes individuals with disabilities) in the areas of information dissemination, recruitment, services, and transition. It further requires the full participation of individuals who are members of special populations. “Full participation” is defined to include the supplementary and other services necessary for individuals of special populations to succeed in vocational education (Section 403.111(a)(2)(i)).

### **III. CONSULTATION AND TECHNICAL ASSISTANCE**

The DOR will provide consultation and technical assistance to assist LEAs in planning for the transition of students with disabilities from school to post-school activities, including DOR

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Student Services and other VR services. Technical assistance may be provided through teleconference calls, in-person presentations/meetings, or through informational material.

The CDE will provide the DOR with informational material for DOR staff on mandated secondary transition planning under IDEA for students who have an IEP.

Additionally, statewide and local joint trainings with topics addressing DOR Student Services and transition services will be made available to special education teachers, administrators, parents, and students by DOR and CDE. Other training opportunities will be presented to agencies (e.g. County Mental Health programs, AJCCs, Employment Development Department, and Department of Developmental Services) that could individually or collectively share in the responsibility for providing transition-related services to transition aged students with disabilities.

The DOR has established a core series of training curriculum designed for local DOR and LEA staff. Expert consultants in their respective fields provide training modules that include but are not limited to:

- DOR Student Services Work Based Learning Experiences.
- DOR Student Services Workplace Readiness Training.
- DOR Student Services Instruction in Self-Advocacy.
- Job Development, Placement and Retention.
- Benefits Planning and Management.
- Transition Age Youth.
- Collaboration and Building Partnerships for Successful Employment.

#### **IV. TRANSITION AND DOR STUDENT SERVICES PLANNING**

##### **Collaborative Transition Planning and Development for Individualized Program Plans (IEP) and (IPE) (The Rehabilitation Act, Section 101(a)(11)(D))**

In the special education system, the federally mandated IEP is developed by a team that invites the student/consumer and is based on the educational needs of the student with a disability. The IEP will include, beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills and the transition services

(including courses of study) needed to assist the child in reaching those goals (20 USC Section 1414(d)(1)(A)(i)(VIII)(aa) and (bb)).

The IEP team has the responsibility to invite the student, parents (or family members, guardian, or conservator) as well as, to the extent appropriate and with the consent of the parent or adult child, representatives of appropriate agencies, including DOR staff, to the IEP meeting when the purpose of the meeting is the consideration of transition services (20 USC Section 1414(d)(1)(B); 34 CFR 300.321). In preparing for transition services planning, the school is encouraged to inform the parents and the student no later than age 16 about DOR services and facilitate the referral process.

The CDE will encourage LEAs to invite DOR staff to IEP meetings and other team meetings, to the extent appropriate and with the consent of the parent or adult child, so the DOR can provide information, technical assistance, and information/referral as needed for eligible or potentially eligible students with disabilities.

The DOR staff will attend IEP meetings, when invited, to actively participate in the planning and development of DOR Student Services and transition services for the individual student.

For each eligible secondary student with a disability who applies for vocational rehabilitation services, the DOR will develop an IPE before the student leaves the school system or within 90 days of eligibility determination, whichever occurs first.

The LEA and the DOR will use a collaborative team process to develop the transition services section of the IEP and the IPE for the transitioning student. This will assist in the coordination of goals, objectives, services and timeframes (The Rehabilitation Act, Section 101(a)(11)(D); 361.46(d)).

Refer to Appendix A Section Transition and DOR Student Services Planning for a description of the local process.

## **V. OUTREACH**

### **Procedures for Outreach and Identification of Students with Disabilities**

(The Rehabilitation Act, Section 101(a)(11)(D)(iv))

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To enhance outreach and identification of students with disabilities that need DOR Student Services and transition services by education and VR and in recognition that each DOR district and LEAs may have unique operational and staffing characteristics, local DOR districts and LEAs will work together to develop policies and/or procedures to ensure access to these services. The LEAs and DOR districts will refer to Appendix A Section Outreach for the development of local outreach procedures.

The DOR outreach procedures to students will include sharing information on the VR program, eligibility requirements, application procedures, and the scope of services that may be provided to eligible individuals.

Outreach activities are not exclusive to students with disabilities in special education but should include those students with disabilities for purposes of Section 504 of the Rehabilitation Act; and students with disabilities enrolled in an educational program and not in special education.

To the extent possible, joint education and DOR trainings will be conducted that address the availability and benefits of, and eligibility standards for, DOR Student Services and VR services, to enhance the opportunities of students with disabilities needing transition services to access a continuum of services from DOR.

## **VI. COORDINATION**

### **A. State Level Coordination**

The DOR and the CDE have the general responsibility for providing leadership and monitoring to local DOR offices and LEAs, respectively, to facilitate the development of cooperative programs for secondary students, memorandums of understandings, and identification of students with disabilities who are either potentially eligible or eligible for the VR program. DOR and CDE staff will work cooperatively with other state programs and agencies to ensure that DOR students/consumers have access to the resources available through the workforce development system.

Each agency shall establish and maintain standards which are consistent with any state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing special education or related services in the case of LEAs and in which such personnel are providing VR

services in the case of the DOR (20 USC Section 1412(a)(14)(D); The Rehabilitation Act, Section 101(a)(7)(B)(i)).

In keeping with the goal of collaboration to support transitioning students, both the DOR and the CDE will promote the inclusion of cross-disciplinary training through both special education and VR pre-service academic degree programs for students entering into both fields.

State and local staffs from each agency are encouraged to work together to plan and implement evaluation activities, including individual accountability measures, for shared students/consumers. These activities should address program effectiveness, consumer satisfaction, longitudinal outcomes, cooperative research and pilot projects, and other joint efforts to document and improve the effectiveness of transition services.

To the extent possible, DOR will provide training to staff of other agencies as to the availability and benefits of, and eligibility standards for, VR services, to enhance the opportunity of individuals receiving the services to obtain VR services (The Rehabilitation Act, Section 101(a)(11)(B)).

## **B. Local Level Coordination**

Each local administrator, or designee, will be responsible for the coordination of transition-related activities both within his or her own agency and with other agencies. This will serve a variety of purposes, including, but not limited to, the following: coordination of resource information, outreach, program information dissemination, research and evaluation, including student follow-up studies and, facilitating annual meetings of interagency personnel who serve secondary students with disabilities for the provision of DOR Student Services and transition services.

The LEAs and the DOR districts will utilize the following resources, outlined in the Local Interagency Agreement Template (Appendix A Section Coordination and Referrals to assist in the identification of local coordination activities:

- School Contact List - The DOR has developed a school contact list to serve as a mechanism to identify DOR school liaisons for each secondary school district in the state of California. The school contact list consists of over 500 secondary school

districts. It serves a variety of purposes, including but not limited to the coordination of resource information, outreach, and program information dissemination.

- Memorandums of Understanding (MOUs) - The DOR and the CDE recommend and encourage the development of local MOUs between the DOR and the local LEA. These MOUs will serve to facilitate and coordinate DOR Student Services and transition services for secondary students with disabilities. State technical assistance will be provided to form such agreements.
- Local Partnership Agreements - Collaborations may also include Local Partnership Agreements encouraged by the CDE, the DOR, and the Department of Developmental Services as an initiative of the CIE Blueprint ([http://www.chhs.ca.gov/Pages/Competitive-Integrated-Employment-\(CIE\).aspx](http://www.chhs.ca.gov/Pages/Competitive-Integrated-Employment-(CIE).aspx)) to provide opportunities to students with intellectual disabilities and developmental disabilities.

## **1. Coordination of DOR Student Services**

Section 113(a)(b) of the Rehabilitation Act, as well as final §361.48(a)(2), require the DOR, in collaboration with the LEAs involved, to make certain to provide or arrange for the provision of the five DOR Student Services required activities available to all students with disabilities who need them. As described in Appendix A Section Coordination of DOR Student Services, the DOR will collaborate with LEAs to provide any or all the following five DOR Student Services required activities to students with documented disabilities (ages 16 through 21) as defined under §361.5(c)(51), based on individual need. DOR Student Services required activities are:

1. Instruction in self-advocacy and peer mentoring.
2. Work based learning experiences.
3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education.
4. Workplace readiness training.
5. Job exploration counseling.

The CDE will encourage the LEAs to engage students with disabilities and their families in the planning for the provision of DOR Student Services, in coordination with DOR staff.

## **Accessing Students on Campus**

DOR Student Services focus on transition goals related to early career development and postsecondary counseling and may be provided by dedicated VR staff to potentially eligible and eligible, either on or off school campus. On-campus coordination of DOR Student Services at the local level will require coordination between DOR districts and LEAs to determine how and when staff may access students to provide DOR Student Services. If such services are provided on campus, the DOR districts will work with the LEAs to access students with disabilities in need of such services and will follow the LEA guidelines appropriately, including guidelines related to fingerprints and background checks consistent with the LEA policy. While such services are not intended to take away from required academic coursework, the LEAs may determine that DOR Student Services may be provided by VR staff as a designated class for credit, during elective periods, during summer, or through other arrangements.

## **2. Coordination of Vocational Rehabilitation Services**

(The Rehabilitation Act, Section 101(a)(11)(D)) To improve the coordination of transition services between education and VR and in recognition that each DOR district and Special Education Local Plan Areas (SELPA) with the corresponding county office of education and the LEAs may have unique operational and staffing characteristics, local agencies will work together to develop the policies and/or procedures outlined in Appendix A section Coordination of Vocational Rehabilitation Services to ensure a seamless referral process for students who may need DOR services.

The Rehabilitation Act, as amended by WIOA, mandates a streamlined approach to determining eligibility for services and for planning purposes in developing the IPE. The amendments, in an effort to reduce barriers to consumers and to more effectively use limited resources, call for the use of existing data and information about a student's disability, interests, aptitudes, academic performance, and needs. To determine eligibility and interests, the DOR shall use acceptable, existing information from other agencies, particularly from the LEAs, to document the presence of a physical or mental impairment (The Rehabilitation Act, Section 102(a)(4)).

Documentation that a student has a physical or mental disability may be obtained by verification that any other agency has determined based on an assessment by a qualified

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professional, that the student has a disability. This includes public or private agencies, which receive public funds specifically for providing services to individuals with verified disabilities.

In keeping with the spirit and intent of and consistent with the Rehabilitation Act amended by WIOA, joint sharing and use of evaluations and assessments will occur between the agencies to reduce the duplication of multiple assessments for rehabilitation services eligibility and for the planning and developing of the IPE (The Rehabilitation Act, Section 102(a)(4)).



### **3. Order of Selection**

In accordance with the Rehabilitation Act, as amended by WIOA, when VR services cannot be provided to all eligible individuals with disabilities who apply for such services with DOR, the DOR is required to declare and implement an Order of Selection policy. The Order of Selection policy for the provision of VR services shall be determined on the basis of serving first those individuals with the most severe disabilities in accordance with criteria established by the DOR (The Rehabilitation Act, Section 101(a)(5)).

Accordingly, the CCR, Title 9, Article 2, 7050–7057 specifies Order of Selection provisions. If the number of individuals eligible to receive VR services must be limited, the Director of DOR shall declare the Department under Order of Selection of Vocational Rehabilitation Services when the budget information available indicates that the projected resources available for VR services are not adequate to meet all the projected costs (CCR, Title 9, Article 2, 7052).

The DOR will determine which priority categories can be served by comparing the projected costs of serving all individuals assigned to a priority category and the projected resources available to meet these costs (CCR, Title 9, Article 2, 7053). Priority category is defined as the order in which individuals will be served. The category shall be established first on the individual's level of significance of disability, and second, their date of application (CCR, Title 9, Article 2, 7051(a)(7)). Level of significance of disability means one of the following: disabled, significantly disabled, or most significantly as determined by the criteria set forth in CCR, Title 9, Article 2, 7051(a)(5). Assessing the level of significance of disability shall be done per the criteria set forth in CCR, Title 9, Article 2, 7054.

Individuals assigned to priority category or categories being served shall continue to receive VR services. Individuals who are not included in the priority category or categories being served shall be placed on a statewide waiting list. During Order of Selection, coordination of transition between agency staffs will continue on an individual basis for each consumer whose IPE was signed prior to the Order of Selection implementation date. For individuals in priority category or categories not being served or without a signed IPE, the role of the DOR counselor will change.

## **Order of Selection for Students with Disabilities and DOR Student Services**

Students with disabilities are not required to apply or be determined eligible for VR services before receiving DOR Student Services. Students who have provided adequate documentation of their disability and enrollment in a recognized education program shall not have their participation in DOR Student Services delayed by the process of applying for VR services.

Students who do not apply for VR services may continue to receive DOR Student Services under the potentially eligible case type as long as they continue to satisfy the definition of a student with a disability.

Students who apply and are determined eligible for VR services will be assigned to an Order of Selection category (see Order of Selection section above).

Students who apply and are determined ineligible for VR services are no longer considered potentially eligible and may not receive VR services or DOR Student Services.

### **Assignment to an Open Order of Selection Category**

A student who is found eligible for VR services and assigned to an open Order of Selection category may have DOR Student Services included on the IPE and provided for as long as the individual continues to meet the definition of a student with a disability.

A student who is receiving DOR Student Services prior to applying and being found eligible for VR services may continue to receive needed DOR Student Services. Additional DOR Student Services will then be provided as identified in the IPE. All DOR Student Services provided after application but prior to the development of the IPE will be documented in the student's record of services in the VR case type (34 CFR 361.36(e)(3)(i)).

### **Assignment to a Closed Order of Selection Category**

A potentially eligible student who received DOR Student Services prior to applying for the VR program may continue to receive such services until an IPE is developed, even if the student is assigned to a closed order of selection. In this case, the VR team will document DOR Student Services using the VR case type.

A student with a disability who did not receive DOR Student Services prior to applying for the VR program may not receive any DOR Student Services until the IPE is developed. This means that an eligible student who is assigned to a closed order of selection category and placed on a waiting list for VR services before receiving DOR Student Services may not receive DOR Student Services until they are removed from the waiting list and an IPE is developed.

### **C. Coordination of Section 511 Documentation Requirements - Students with Disabilities Seeking Subminimum Wage Employment**

Under the section 511, of the Rehabilitation Act, as described in Section 14(c) of the Fair Labor Standards Act of 1938, businesses referred to as “employers” are prohibited from employing any individual with disabilities who is 24 years of age or younger (youth) at subminimum wage, unless the individual has received documentation from DOR upon completion of all the following activities:

- DOR Student Services or transition services under the IDEA, and
- Applied for VR services, and
- The individual was determined ineligible for VR services, or
- The individual was determined eligible for VR services, had an approved IPE, and the individual was unable to achieve an employment outcome in CIE after a reasonable period of time, and his/her case was closed, and career counseling and information and referral services to federal and state programs to help the individual discover, experience and attain CIE was provided and the counseling and information was not for employment at subminimum wage.

The DOR will maintain the documentation and provide a copy to the individual within the timelines identified, as specified in 34 CFR 397.

Neither the CDE nor an LEA in California will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for operating a program under which a youth with a disability is engaged in work at a subminimum wage.

The DOR, in consultation with the CDE, must develop a new process or use an existing process to document the completion of the activities described above as well as the transmittal of documentation from the LEAs to the DOR, consistent with the confidentiality

requirements of the Family Education Rights and Privacy Act (20 USC 11232(g)(b) and 34 CFR 99.30 and 99.31) and IDEA (20 USC 1417(c) and 34 CFR 300.622) pursuant to section 511(d) of the Act and 34 CFR 397.10.

Refer to Appendix A Section Coordination of Section 511 Documentation Requirements - Students with Disabilities Seeking Subminimum Wage Employment for a list of the required documentation and the local documentation transmittal process from the LEAs to the DOR (34 CFR 397.10(a)(1)).

The DOR and the LEAs must retain copies of the documentation in a manner consistent with the requirements of 2 CFR 200.333.

The DOR must provide the documentation to the youth with a disability within 45 days after completion of the required activity or service, or 90 calendar days, if additional time is necessary due to extenuating circumstances.

If a youth with a disability or, as applicable, the youth's parent or guardian, refuses, through informed choice, to participate in the activities required by section 511 or the implementing regulations in 34 CFR 397, documentation is required. Refer to Appendix A Section Coordination of Section 511 Documentation Requirements - Students with Disabilities Seeking Subminimum Wage Employment for a list of the required documentation.

## **VII. FINANCIAL RESPONSIBILITIES**

### **A. Determination of Lead Agencies and Financial Responsibilities**

(The Rehabilitation Act, sections 101(a)(11)(D)(iii) and 101(a)(8)(B); 20 USC Section 1412(a)(12))

In the provision of services to students with disabilities it is understood that both the DOR and the CDE have specific responsibilities as delineated by the agencies' applicable rules and regulations. These responsibilities include the provision of services as delineated and required by the individual's individualized plan with each respective agency. In the development of these plans both agencies' staff will ensure that duplication of services, which may occur in those instances where responsibilities overlap, does not occur.

When a service, including a DOR Student Service or transition service, could be provided by either the LEA or DOR, the LEA and DOR will use the criteria in Appendix A Section Criteria

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for Determining Lead Agency for Financial Responsibilities to determine and assign the financial roles and responsibilities of each agency for the provision of the service.

The LEA and DOR may develop an MOU that includes procedures for invoicing and reimbursement of services provided or paid for by each respective agency that is determined to be the responsibility of the other.

## **1. LEA Financial Responsibilities**

The CDE has certain statutory responsibilities for oversight of LEAs. With respect to special education specifically, LEAs must make services available until a student receives a regular high school diploma or turns age 22, whichever occurs first.

The LEA is responsible for providing and paying for the transition services agreed upon in the IEP required to be provided to students with disabilities who are eligible for services under the IDEA. Under IDEA, services are required if the student with a disability requires special education and related services to benefit from a free appropriate public education. Accordingly, the LEA shall be responsible for assuring that each student with a disability has a free appropriate public education according to his/her IEP. By law, the IEP team must consider transition services for the individual student, beginning no later than age 16. This provision shall not be construed to limit the responsibility of agencies other than educational agencies from providing or paying for some or all the costs of a free appropriate public education to be provided students with disabilities (20 USC sections 1412(a)(12) and 1414(d)(1)(A) and (B); 34 CFR 300.324(b)).

Nothing under Title I of the Rehabilitation Act shall be construed as reducing an LEA's obligation under the IDEA to provide or pay for transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities.

## **2. DOR Financial Responsibilities**

DOR is responsible for providing or arranging for the provision of DOR Student Services identified and agreed upon by the student with a disability, and VR, DOR Student Services, and transition services agreed upon in the IPE for the period that the individual is participating in the VR program as reflected in the individual's IPE.

### **a. DOR Student Services**

The DOR has responsibility for providing or arranging for the provision of DOR Student Services to students with disabilities who need them, including those potentially eligible and VR services to eligible individuals with disabilities. To facilitate a smooth transition from post-school activities, students with disabilities, including those potentially eligible, may be served by the DOR while still enrolled in school.

The DOR financial need policy and the possibility of a student/family financial contribution will not apply when a potentially eligible student participates in DOR Student Services or when such student requires auxiliary aids and services to participate in DOR Student Services (34 CFR 361.50(a); 34 CFR 361.54(b)).

#### **Auxiliary Aids and Services for DOR Student Services**

Auxiliary aids and services ensure equal access to information, materials, services, and activities available to students with disabilities participating in DOR Student Services. As such, expenditures incurred for the purchase or acquisition of auxiliary aids and services for students with disabilities needing such aids or services to access or participate in DOR Student Services specified in section 113(b) of the Rehabilitation Act and 34 CFR 361.48(a)(2) would constitute an allowable DOR Student Services cost.

The DOR will ensure that no qualified student with a disability is denied the benefit of DOR Student Services based on the individual's disability. If a potentially eligible student with a disability requires auxiliary aids or services to access information for or participate in any of the required DOR Student Services, the DOR may pay for such costs when no other public entity is required to provide such aid or service.

Auxiliary aids and services are described in the Americans with Disabilities Act and in Section 504(a) of the Rehabilitation Act. They are products and services that allow students with visual, hearing, or manual impairments to have equal access to information, materials, services, and activities.

Auxiliary aids and services purchased for DOR Student Services participation must only be used for the duration of the DOR Student Services activity. When an auxiliary aid is equipment or a device, the DOR will retain ownership and require its return at the conclusion of the service for which it was provided, so that it may be available for use by other students receiving DOR Student Services. Where prior approval is

required from the Rehabilitation Services Administration, the DOR will follow DOR procurement process for prior approval.

Funds for DOR Student Services may not be used to modify a student's personal equipment or devices, or to provide personal equipment or devices of which students would retain ownership. If a student requires a personal device to participate in services, the DOR may loan the device, contingent on availability. The student will be required to return the device when it is no longer required for DOR Student Services participation.

Auxiliary Aids and Services may include:

- Interpreters.
  - Note takers.
  - Real-time transcription services (computer-aided).
  - Open and closed captioning.
  - Closed caption decoders.
  - Readers.
  - Written materials.
  - Taped texts.
  - Braille materials and displays.
  - Audio recordings.
  - Large print materials.
  - Assistive listening devices or systems.
  - Secondary auditory programs (SAP).
  - Telephone handset amplifiers.
  - Telephones compatible with hearing aids.
  - Videotext displays.
  - Voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones.
  - Real time captioning.
  - Screen reader software.
  - Magnification software.
  - Optical readers.
  - Equipment adapted for use by students with manual impairments.
  - Other effective methods of making materials available to students with hearing, visual, or manual impairments, including the acquisition or modification of equipment or devices.
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Auxiliary Aids and Services do not include:

- Personal devices (e.g., computers, laptops, tablets, etc.).
- Prescribed devices (e.g., eyeglasses, hearing aids, wheelchairs).
- Readers for personal use or study.
- Attendant Care or other services of a personal nature.
- Home or vehicle modifications.

#### Additional Accommodations and Supports

When a potentially eligible student needs accommodations or supports beyond the scope of auxiliary aids and services (e.g., uniform, bus pass, job coach, personal device) to participate in any DOR Student Services activity, the student must first apply and be found eligible for the VR program.

#### **b. Vocational Rehabilitation Services**

The DOR is the responsible agency for the provision of VR services to individuals with disabilities who require these services to prepare for, secure, retain, regain, or advance in an employment outcome. The following services may be provided without regard to a prior determination of comparable services and benefits (The Rehabilitation Act, Section 101(a)(8)(A); 34 CFR 361.53(b)):

- An assessment for determining eligibility and VR needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology (The Rehabilitation Act, Section 103(a)(1)).
- Counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of Section 102(d) (The Rehabilitation Act, Section 103(a)(2)).
- Referral and other services to secure needed services from other agencies through agreements developed under Section 101(a)(11), if such services are not available under this title; The Rehabilitation Act Section 103(a)(3). (NOTE: Except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this part unless maximum efforts have been made by the state unit to



secure grant assistance in whole or in part from other sources to pay for that training (34 CFR 361.48(b)(6)).

- Job-related services, including job search and placement assistance, job retention services, follow-up services and follow-along services (The Rehabilitation Act Section 103(a)(4)).
- Rehabilitation technology including telecommunications, sensory, and other technological aids and devices (The Rehabilitation Act, Section 103(a)(14)). The term “rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disability in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services (The Rehabilitation Act, Section 7(30)).

Consumer financial participation for the provision of VR services can be considered except for those specifically excluded.

#### **i. Comparable Services and Benefits**

For the provision of other VR services, the DOR is responsible for determining whether comparable services and benefits are available under any other program, unless such a determination would interrupt or delay – (1) the progress of the individual toward achieving the employment outcome identified in the IPE of the individual in accordance with Section 102(b); (2) an immediate job placement; or (3) the provision of such service to any individual at extreme medical risk (The Rehabilitation Act, Section 101(a)(8)(A)).

### **3. Assistive Technology**

If the student’s/consumer’s assessed needs require the use of assistive technology to provide a free appropriate public education, such equipment must be provided in accordance with the IEP or in a Section 504 plan, if the student is not served by special education (34 CFR 300.105, 34 CFR 104.33, and 104.34). Similarly, if the assistive technology is needed to prepare the student for the world of work, then the need must be related to the employment outcome for the transitioning student and provided in accordance with the IPE (The Rehabilitation Act, Section 102(b)(3)(A)(B); 34 CFR 361.46(a)(2)(i)). (Refer to Section II(B)(6))

“Assistive Technology Device and Services” of this agreement for definitions.)

At the point where DOR becomes involved in transition services planning for the individual student with a disability, education and rehabilitation staffs should review the assistive technology needs of the student and define how assistive technology will be provided.

It is the responsibility of the LEA to purchase equipment for students with disabilities if the student requires specialized books, materials, and equipment for school indicated by the student’s IEP or the Section 504 plan. The purchase of the equipment by the LEA is for use by the student as indicated in his/her IEP. The equipment purchased with state or federal funds remains the property of the state, whereas, any service or purchase required by the individual for employment and/or education beyond high school graduation would be provided by DOR. Equipment purchased by DOR will remain the property of DOR until the student’s case is successfully closed.

When a student is near graduation, the DOR can support the purchase of equipment for the student/consumer as defined in the IPE if it is needed for the completing of the rehabilitation goal.

Assistive technology devices or services are made available through special education funds to students with an IEP or through general education funds to students with disabilities not in special education as defined by Section 504. Determination of whether a student with a disability requires assistive technology devices or services under this program must be made on an individual basis through an IEP (34 CFR 300.105) or as required pursuant to settings other than the student’s school (e.g., the student’s home or other parts of the community).

Under the Rehabilitation Act, an individual with a disability is eligible for assistive technology as required and identified in the IPE to achieve the consumer’s intermediate rehabilitation objectives and long-term goals of employment and rehabilitation. This technology is exempt from the comparable services and benefits requirements (The Rehabilitation Act, Section 101(a)(8)(A)).

Referral for assessment of assistive technology services is allowed, where appropriate, for the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment (The Rehabilitation Act, Section 7(2)(C)).

As prescribed under the Rehabilitation Act, the IPE should provide for regular and periodic assessments to ensure that a match exists between the supports, the technology, and the current and changing needs of the individual. In addition, the IPE should address the training needs of the individual who will be using the technology, as well as other people involved in the provision of services who require the information (Senate Report 102-357, p.39).

## **VIII. STUDENTS WITH DISABILITIES WHO ARE NOT RECEIVING SPECIAL EDUCATION SERVICES**

Under the Rehabilitation Act, it is intended that transition services be available to students with disabilities regardless of if they are receiving special education services (The Rehabilitation Act, Section 101(a)(11)(D); 34 CFR 361.22(b)). While the conditions covered in this agreement apply to all students with disabilities whether or not they have IEPs, this section outlines conditions specific to students with disabilities who are not served by special education through an IEP.

### **A. Student Accommodations and Services Under Section 504**

Section 504 of the Rehabilitation Act prohibits discrimination against persons with disabilities by LEAs receiving federal financial assistance. Section 504 applies to any student who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment (34 CFR 104.3). Major life activities include walking, seeing, hearing, speaking, breathing, learning, working, caring for oneself, and performing manual tasks. Any student who meets this definition is protected under Section 504 regardless of their eligibility for special education. For every student determined to have a disability under Section 504 and who does not meet the eligibility requirements for special education, the LEA may develop and implement a plan for the delivery of needed services required by Section 504 (34 CFR 104.35).

### **B. Coordination of DOR Student Services and Transition Services for Students Not Served by Special Education**

The availability of DOR Student Services and transition services to students with disabilities regardless of whether or not they are served by special education, can be maximized by coordinating transition planning of individualized programs (The Rehabilitation Act, Section 101(a)(11)(D); 34 CFR 361.22). To the greatest degree possible, the planning and development of DOR Student Services and transition services for this population should also

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use a collaborative process, which involves the student, family, educational personnel, and the DOR staff. This process should include the provision to share documents, provided appropriate signature authorizations have been given for the release of information.

Refer to Appendix A Section Students with Disabilities Who Are Not Served by Special Education Local-Level Activities for the Coordination of DOR Student Services and Transition Services for Students Not Served by Special Education.

## **IX. GENERAL ADMINISTRATION**

### **A. Americans with Disabilities Act**

The state and local agencies assure compliance with the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendments Act of 2008, which prohibits discrimination based on disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.).

### **B. Non-Discrimination**

No person shall be excluded from participation, denied any benefits or services, or subjected to discrimination based on the following protected categories: race, color, religion, religious creed (including religious dress and grooming practices), national origin, ancestry, citizenship, physical, mental or intellectual disability, medical condition (including cancer and genetic characteristics), genetic information, marital status, sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity, gender expression, age (40 years and over), sexual orientation, veteran and/or military status, protected medical leaves (including requests for and approval or denial of leave under the Family and Medical Leave Act, the California Family Rights Act, or the California Fair Employment and Housing Act's Pregnancy Disability Leave), domestic violence victim status, political affiliation, and any other protected category covered by state or federal law.

The state and local agencies shall ensure that the evaluation and treatment of employees and persons receiving services by way of this Agreement are free from such discrimination and harassment. The state and local agencies shall comply with the provisions of Government Code sections 11135-11139.5, and the regulations or standards adopted to implement such article. Access shall be permitted to representatives of the Department of Fair Employment and Housing upon reasonable notice at any time during the normal

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business hours, but in no case less than 24 hours' notice, to books, records, accounts, and all other sources of information and facilities as said Department or Agency shall require ascertaining compliance with this clause.

### **C. Data Security and Confidentiality**

An LEA may provide education records to the DOR for the performance of transition services but will do so only after the LEA has received the prior written consent of the parent or adult student with educational rights. The DOR shall: (i) keep all personally identifiable information contained in education records confidential; (ii) use education records solely for the purpose of performing this agreement; (iii) disclose education records solely to those employees with a need to know for the purpose of performing this agreement; and (iv) immediately return or confidentially destroy all education records per National Institute of Science and Technology (NIST) Special Publication (SP) 800-88 when no longer needed for the purposes for which it was disclosed.

The DOR may provide consumer information to an LEA for the performance of transition services but will do so only after the DOR has received the prior written consent of the consumer. If the consumer is under the age of 18 and is not an emancipated minor, requires the written consent of the parent or guardian. The LEA shall: (i) keep all personally identifiable information contained in consumer records confidential; (ii) use consumer records solely for the purpose of performing this agreement; (iii) disclose consumer records solely to those employees with a need to know for the purpose of performing this agreement; and (iv) immediately destroy all consumer records when no longer needed for the purposes for which it was disclosed.

Appropriate steps will be taken to protect confidential information of persons with disabilities, including:

1. Storage administration should include the strict control and accessibility of all storage media.
2. All storage media should be inventoried on an annual basis, or sooner as dictated by clients, regulatory, or other contractual agreements.
3. Wherever possible, physical backup and transfer should be avoided or eliminated in favor of electronic transfer of encrypted backup files.

4. All data files and databases containing personally identifiable information (PII) data will be encrypted using currently approved NIST algorithms when being electronically transferred across an internal network. That list can be found here: <https://csrc.nist.gov/Projects/Cryptographic-Standards-and-Guidelines>. All data files and databases containing PII data will be encrypted using currently approved NIST algorithms and Federal Information Processing Standard (FIPS) 140-2 mode or FIPS 140-2 approved ciphers when being electronically transferred across a public network.
5. For the backups of data files and databases that contain PII data, which are backed up to removable physical media (portable electronic storage media, including tapes), the data on the removable physical media will be encrypted utilizing a FIPS 140-2 validated encryption solution.
6. Physical media containing PII data should be maintained in a secure environment prior to its transfer offsite.
7. Physical media containing PII data should be monitored during the internal shipping process and must never be left unattended before handoff to the shipper.
8. Physical media containing PII data should be shipped in locked containers with no special markings or other indications of the sensitive nature of the contents.
9. Shipping procedures should include a positive acknowledgement of receipt of encrypted backup files at the destination.

In the event either party becomes aware of the possibility that the confidentiality of other party's confidential information may have been compromised, such party shall notify the other party's Information Security Officer ([iso@dor.ca.gov](mailto:iso@dor.ca.gov) and [iso@cde.ca.gov](mailto:iso@cde.ca.gov)) within two hours. Security breaches may include, but are not limited to, inappropriate use or unauthorized student/consumer information disclosure through electronic, paper and verbal methods.

1. Any report or material created during the performance of this Agreement will not contain personally identifiable information from education or consumer records and will not be released to any source except as required by this Agreement or otherwise authorized by both parties.
2. The provisions applicable to education and consumer information are as set forth in 34 Code of Federal Regulations, Part 99; 34 Code of Federal Regulations, Section 361.38 and Title 9, California Code of Regulations, Section 7140 et seq., and personal

information as set forth in the Information Practices Act of 1977 (California Civil Code Section 1798 et seq.).

3. Security breaches or information security incidents that shall be reported include, but are not limited to:
    - a. Inappropriate use or unauthorized disclosure of confidential, sensitive, or personal information (e.g., consumer information) obtained in the performance of this Agreement. Disclosure methods include, but are not limited to, electronic, paper, and verbal.
    - b. Unauthorized access to confidential, sensitive, or personal information (e.g., consumer information) obtained in the performance of this Agreement. Information can be held in a medium that includes, but is not limited to, electronic, paper, and verbal.
    - c. Loss or theft of information technology (IT) equipment, electronic devices/media, paper media, or data containing confidential, sensitive, or personal information (e.g., consumer information) obtained in the performance of this Agreement. IT equipment and electronic devices/media include, but are not limited to, computers (e.g., laptops, desktops, tablets), smartphones, cell phones, CDs, DVDs, USB flash drives, servers, printers, peripherals, assistive technology devices (e.g., note takers, videophones), and copiers. Data can be held in a medium that includes, but is not limited to, electronic and paper.
  4. A self-training manual is available on the DOR website in the “Service Provider” section under “Annual Security and Privacy Training for VR Service Providers.” The self-training manual is named “Protecting Privacy in State Government” and can be downloaded at the following link:  
<http://www.dor.ca.gov/VRED/Security-n-Privacy-Training.html>.
  5. Additional training and awareness tools are available at the California Information Security Office (CISO) website and the California Department of Justice – Privacy Enforcement and Protection website. These state entities created the self-training manual, “Protecting Privacy in State Government” that DOR revised to meet its business needs.
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## **D. Due Process Requirements**

Provisions for due process notification and information are included in IDEA (20 USC Section 1400 et. seq.); the Rehabilitation Act (Section 102), including Section 504 of the Act (34 CFR 104.36, 34 CFR 104.7); the California Education Code, Chapter 4, Section 56500 et seq., and Chapter 5; and the Welfare and Institutions Codes 19006 and 19016.

Both the LEA and DOR provide written due process and procedural safeguards, rights, and procedure information to the parent/family of the student who is referred for special education, DOR Student Services, or VR services. If the student is at least 18 years of age or an emancipated minor and not conserved, the student rather than the parent/family receives the information.

Section 504 requires any recipient of federal funds who employs fifteen or more people, to designate at least one responsible employee to coordinate efforts related to grievance procedures, and to adopt grievance procedures that incorporate appropriate due process standards that provide for the prompt and equitable resolution of complaints alleging any prohibitive action (34 CFR 104.7).

### **1. Local Educational Agencies**

For LEAs, the procedural safeguards notice containing information about due process and other parent rights information must be provided with the proposed assessment plan for each student referred for special education or determined to have a disability under Section 504, even those not receiving services under the section. The parent signature is required to document that the parent consents to the assessment plan and to document receipt of the procedural safeguards notice.

### **2. Department of Rehabilitation**

For DOR, due process information is provided both verbally and in writing. This information is provided during the formal application process (intake). The student and parent/family receive the DOR Consumer Information Handbook and the DOR rehabilitation counselor also discusses civil rights, eligibility requirements, confidentiality, appeals procedures, and the Client Assistance Program. The application contains a statement documenting this information was provided, and



requires the signature of the applicant, or if the applicant is under the age of 18 and is not an emancipated minor, requires the signature of the parent.

For potentially eligible individuals, the DOR provides due process options (i.e., Administrative Review, Mediation, and Fair Hearing) to the individual during an initial meeting to discuss DOR Student Services. This meeting may occur individually with the student, with the student and his or her parents, guardians, and/or representatives, or with a group of students; the discussion may be held at the school, the DOR office, in a location in the community, or via phone conversation, as appropriate.

### **E. Agency Dispute Resolution Process**

(The Rehabilitation Act, Section 101(a)(8)(B), 20 USC Section 1412(a)(12)(A)(iii))

During the administration of this Agreement, disputes might arise between the LEA and DOR regarding financial responsibility for services or other policy or programmatic issues. It is mutually recognized that all attempts shall be made to resolve the dispute at the earliest and most primary level possible. In keeping with the ADA, where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, fact-finding, mini trials, and arbitration, is encouraged to resolve dispute arising under this Act (ADA, Section 513). The various levels for agency dispute resolution are displayed below.

#### **DISPUTE RESOLUTION BETWEEN AGENCIES**

##### Education

##### Rehabilitation

School Site Administrator      **LEVEL I**

Local DOR District  
Administrator or Designee

County, LEA, SELPA, or State  
Special Schools Administrator      **LEVEL II**

Assistant Deputy Director

Director, Special Education;      **LEVEL III**  
Director, State Special  
Schools;

Deputy Director

Director, Secondary  
Education (for non-special  
education students), or  
Designee

Chief Deputy Superintendent    **LEVEL IV**  
of Public Instruction, or  
Designee

Director, DOR, or Designee

Whenever a dispute has not been resolved between parties at a level within 15 days of written notification of the concerns, the parties shall jointly refer in writing the dispute to the next higher level for resolution. A failure to resolve a dispute at Level IV shall jointly be submitted in writing to the Office of Administrative Hearings.

The student's IEP and/or IPE shall not be adversely affected during a dispute to determine the primary source for services (20 USC Section 1412(a)(12)(A); The Rehabilitation Act, Section 102(c)(7)).

#### **F. Order of Precedence of Laws**

In the event of an inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state statutes and regulations.
2. The terms and conditions of this Agreement.
3. Any other provisions of the Agreement whether incorporated by reference or otherwise.

#### **G. Acceptance, Review and Modification of Agreement**

This interagency agreement will be reviewed at least every three years and amended as necessary. Proposed amendments, modifications, or revisions to this interagency agreement shall not become effective unless agreed to by mutual consent of the departments. Notification shall be given to all concerned parties in advance of any modifications with opportunity for consultation.

**APPENDIX A – LOCAL INTERAGENCY AGREEMENT TEMPLATE**

Appendix A -  
LEA-DOR Local Inter

