

# NC DIVISION OF SERVICES FOR THE BLIND POLICIES AND PROCEDURES VOCATIONAL REHABILITATION

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<b>Section:</b>	<b>E</b>
<b>Title:</b>	<b>Eligibility</b>
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## Formerly From: Policy Manual

North Carolina Division of Services for the Blind (DSB) is responsible for the prompt and equitable handling of referrals of individuals for Vocational Rehabilitation (VR) Services. This includes timelines for making good faith efforts to inform individuals of application requirements (On-Line DSB-4004-VR Rehabilitation Application with instructions) as well as for gathering information necessary to initiate an assessment for determining eligibility and priority for services. It is the Vocational Rehabilitation Counselor's responsibility for making initial contact with individual referrals as soon as possible but within thirty (30) calendar days of the date the referral is received.

### 1. ELIGIBILITY FOR VOCATIONAL REHABILITATION SERVICES (TITLE I)

To be eligible for Vocational Rehabilitation (VR) services, an individual must:

- a. have a disability of blindness or visual impairment or have a progressive eye disease or condition which will result in blindness or a significant visual impairment which constitutes or results in a substantial impediment to employment and can benefit from VR services in terms of an employment outcome; and
- b. require VR services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and Informed Choice (IC).
- c. be legally eligible to work in the United States, living the State of North Carolina and have the right to apply for vocational rehabilitation services.

### PRESUMPTION OF BENEFIT AND TRIAL WORK

The Vocational Rehabilitation Counselor shall presume that an eligible individual can benefit in terms of an employment outcome from VR services unless the Vocational Rehabilitation Counselor can demonstrate, by clear and convincing evidence that the individual cannot benefit in terms of an employment outcome due to the severity of the disability of the individual.

Clear and convincing evidence means that the Vocational Rehabilitation Counselor shall have a high degree of certainty before concluding the disability is too severe for the individual to achieve an employment outcome. Clear means unequivocal. Given these requirements, a review of existing information generally would not provide clear and convincing evidence. Clear and convincing evidence might include, but is not limited to, a description of Assessments [including situational assessments and Supported Employment (SE) (SES) assessments] from service providers who have concluded that they would be unable to meet the individual's needs due to the severity of the individual's disability. Clear and convincing evidence must include, if appropriate, a functional assessment of skill development activities,

with any necessary supports (including assistive technology) in real life settings.

If the Vocational Rehabilitation Counselor believes that the individual is incapable of benefiting from VR services in terms of an employment outcome because the individual's disability is too severe, the Vocational Rehabilitation Counselor must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations through the use of Trial Work Experiences (TWE). The TWE should, to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual, be provided in integrated work settings. TWE shall be of sufficient variety and over a sufficient period of time to determine "eligible" or that there is clear and convincing evidence that the individual cannot benefit in terms of an employment outcome due to the severity of the individual's disability.

The Vocational Rehabilitation Counselor must develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of TWE. Trial Work Experiences include SE, Work Experience/On-the-Job Training (OJT), and other experiences using realistic work settings. The Vocational Rehabilitation Counselor will provide appropriate supports, including Assistive Technology Devices and Services (ATD) and Personal Assistance Services (PAS), to accommodate the rehabilitation needs of the individual during the TWE.

Goods and services that the individual requires to participate in DSB-approved diagnostic, assessment, and evaluation services shall be provided on a rental or borrow free of charge basis rather than by purchase, if appropriate, feasible, and cost effective.

The Vocational Rehabilitation Counselor shall not provide or commit to provide any other services until the Vocational Rehabilitation Counselor makes a final eligibility determination.

## **EXTENDED EVALUATION FOR CERTAIN INDIVIDUALS WITH SIGNIFICANT DISABILITIES**

Under limited circumstances, when an individual cannot take advantage of TWE or if options for TWE have been exhausted before the Vocational Rehabilitation Counselor can make the determination of "eligible," the Vocational Rehabilitation Counselor must conduct an Extended Evaluation (EE). During the EE period, VR services must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

The Vocational Rehabilitation Counselor must develop a written Individualized Plan of Employment (IPE) (On-Line DSB-4005b-VR Individual Plan for Employment with instructions) for providing services necessary to make a determination of eligibility. Goods and services that the individual requires to participate in DSB-approved diagnostic, assessment, and evaluation services shall be provided.

The Vocational Rehabilitation Counselor shall assess the individual's progress as frequently as necessary but at least every ninety (90) calendar days during the EE period. The Vocational Rehabilitation Counselor must justify in the case notes the reason(s) why the individual must remain in EE.

The Vocational Rehabilitation Counselor shall terminate EE services at any point if the Vocational Rehabilitation Counselor determines that there is sufficient evidence to conclude that the individual can benefit from VR services in terms of an employment outcome or there is clear and convincing evidence that the individual is incapable of benefiting from VR services in terms of an employment outcome. When, during EE, the Vocational Rehabilitation Counselor determines that rehabilitation potential exists, a certificate of eligibility for VR services is required to continue services.

## **2. PRESUMPTION OF ELIGIBILITY FOR SSI AND SSDI RECIPIENTS**

The Vocational Rehabilitation Counselor shall presume that the individuals receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) meet all eligibility criteria and are eligible for VR program services provided the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual unless there is clear and convincing evidence that the individual cannot benefit in terms of an employment outcome due to the severity of the individual's disability. An application for DSB services is considered evidence of intent to achieve an employment outcome. Such an individual is considered to be an individual with a significant disability.

## **3. EXISTING INFORMATION AND EVIDENCE OF DISABILITY**

A Vocational Rehabilitation Counselor will use existing and current information (as of the date of the determination for eligibility) to determine whether the individual is eligible for VR services and to assign priority for an Order of Selection, if the Agency is operating under an order of selection.

This includes information available from other programs and providers, particularly information used by education officials and the Social Security Administration (SSA), information provided by the individual and the individual's family, and information obtained under the assessment for determining eligibility and VR needs. Determinations made by officials of other agencies regarding whether an individual has an impairment which creates a substantial impediment to employment shall be used to the extent appropriate, available, and consistent with the requirements of Agency policy and Federal law and regulations.

To the extent that such information listed above is not current, unavailable, inappropriate, or is insufficient for determining eligibility, assessment services will be provided. Currency of the existing data is not a function of when the data were produced but whether the data describe the current functioning of the individual. If additional assessments are required to make an eligibility determination, assistive technology devices and services and work site assessments that are necessary will be provided.

Prior to determination of eligibility, the case record must contain an eye report as evidence of the disability. However, if the applicant can present evidence of eligibility for SSDI or SSI, the Agency determine the individual is presumed eligible for VR services, unless the presumption

of benefit from VR services in terms of an employment outcome can be rebutted by clear and convincing evidence that the individual is incapable of benefiting in terms of achieving an employment outcome due to the severity of the individual's disability.

A qualified rehabilitation Vocational Rehabilitation Counselor determines the eligibility. A written statement of eligibility, the certification of eligibility, is signed and dated and included in the case record for cases not based on presumed eligibility for SSI and SSDI recipients.

#### 4. **TIMELINESS**

It is the responsibility of a qualified Vocational Rehabilitation Counselor to make an eligibility determination as soon as possible, but the time shall not exceed sixty (60) calendar days of the date an individual's application for VR services is submitted. An individual is considered to have submitted an application when the individual, or the individual's representative, has completed and signed an Agency application form or has otherwise requested services, has provided information necessary to initiate an assessment to determine eligibility and priority for services and is available to complete the assessment process.

The deadline may be waived when:

- a. An exceptional and unforeseen circumstance beyond the control of DSB precluded a determination within 60 days and the Vocational Rehabilitation Counselor and the individual or the individual's representative agree to a specific extension (On-Line DSB-4041-VR Extension of Time to Determine Eligibility with instructions) of time; or
- b. An exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations is carried out to determine if the individual is incapable of benefiting from VR services because of the severity of the individual's disability; or
- c. An EE is carried out under limited circumstances when an individual cannot take advantage of TWE or if options for TWE have been exhausted before an eligibility determination is made.

The Vocational Rehabilitation Counselor shall describe in the extension of time to determine eligibility the circumstances beyond DSB's control [as in (1) above], which justifies the extension and the agreed upon period of time for the extension.

The IPE shall be developed and signed within ninety (90) calendar days of the date of the determination of eligibility for VR services. If additional time is required in special circumstances, the Vocational Rehabilitation Counselor will provide written justification in the case notes every ninety (90) days thereafter.

For students who are receiving education services from a public school and are determined eligible for VR services, the IPE will be completed and signed for each student. The steps for this process are similar to those followed when working with an adult individual. It is recognized that the development of these employment plans with younger and less

vocationally mature individuals may take longer. However, the IPE shall be developed and approved as early as possible, but at the latest, before the time each student determined to be eligible for services leaves the public school setting.