



Virginia Department of Planning and Budget **Economic Impact Analysis**

22 VAC 30-20 Provision of Vocational Rehabilitation Services
Department for Aging and Rehabilitative Services
Town Hall Action/Stage: 6458/10319
September 3, 2024

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

Following a 2021 periodic review,² the Department for Aging and Rehabilitative Services (DARS) seeks to amend the regulation to clarify terminology and update certain provisions in response to federal requirements. DARS has confirmed that the proposed changes reflect current practice.

Background

DARS reports that the Vocational Rehabilitation (VR) program provides services to individuals with disabilities to help them prepare for, secure, regain, or retain employment.³ VR services are provided within each state pursuant to the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq., as amended most recently in 2014 by the Workforce Innovation and Opportunity Act (WIOA)) and the corresponding federal regulations found at 34 CFR Part 361.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2018>.

³ VR services for the blind or vision impaired are provided by the Department for the Blind and Vision Impaired.

The proposed amendments would update definitions and terminology and clarify certain provisions in order to better reflect federal regulations and guidance and are summarized below.

- Definitions (Section 10): The definition of “Individual with a most significant disability” would be changed from federal regulatory language to a corresponding definition in the WIOA Combined State Plan for the Commonwealth of Virginia.⁴ The definition of “post-employment services” would be amended to specify the scope of such services in response to guidance promulgated by the US Department of Education on March 11, 2022.⁵
- Order of selection for services (Section 90): An amendment would add language to correspond to 34 CFR 361.36(a)(3)(v) and clarify the department’s priority with regard to the provision of VR services to clients at risk of job loss/failing to maintain employment as federally approved in the VR portion of Virginia’s WIOA Combined State Plan (footnote 4).
- Scope of vocational rehabilitation services for individuals (Section 120): Language would be amended to reflect the U.S. Department of Education guidance about providing post-employment services. Specifically, the proposed changes would specify that (i) individuals may be considered for post-employment services until their case is closed after attaining an employment outcome, and (ii) the department may take a new application if services are needed after an individual’s case is closed as achieving an employment outcome.
- Participation of individuals in the cost of services based on financial need (Section 160): This section covers services that are exempt from required financial participation by beneficiaries. The proposed changes would add auxiliary aids or services and pre-employment transition services (Pre-ETS) to the list of exemptions, and clarify the status of work experience. Auxiliary aids or services and job-related services are now exempt pursuant to 34 CFR 361.54(b)(3). Pre-ETS must be made available to all students with disabilities pursuant to 34 CFR 361.48(a)(1) whether they have been determined eligible

⁴ See page 280 of the <https://www.dars.virginia.gov/downloads/publications/VA%20WIOA%20combined%20state%20plan.pdf>

⁵ See Rehabilitation Services Administration FAQ 22-03 at https://rsa.ed.gov/sites/default/files/subregulatory/RSA-FAQ-22-03_0.pdf.

for VR or are potentially eligible. Additionally, the changes would exempt work experiences regardless of whether the person is paid or not; only unpaid work experiences are exempt currently.

Estimated Benefits and Costs

The proposed changes serve to update and clarify the regulation. This would benefit individuals with disabilities who apply for and/or receive VR services through DARS, including any family members or other individuals who may assist them. DARS reports that the proposed amendments are not expected to change the number of applications received, or the number of eligible beneficiaries.

The proposed changes would clarify that paid work experiences would also be exempt from financial participation. DARS reports that at the time the current regulations were written, paid work experiences were not commonly used or available, and that from a practical perspective, it does not make sense to have someone pay to participate in a paid work experience. In addition, DARS reports that many of the individuals who participate in a paid work experience may already be exempt from financial participation. DARS does not anticipate increased participation in this service as a result of the exemption.

Businesses and Other Entities Affected

The following table provides the number of applications received by DARS, the number of applicants found to be eligible for services, and the number of individuals served for each year since state fiscal year 2019.

SFY	Applications	Eligible	Served	Percent served, as share of eligible
2019	7669	7162	4470	62.4%
2020	7048	6801	5009	73.7%
2021	5502	4691	3397	72.4%
2022	7245	6500	5626	86.6%
2023	8793	8047	6952	86.4%
2024	9276	8496	6904	81.3%

Further, DARS reports that in federal FY 2022, there were 9 clients participating in paid work experience. In federal FY 2023, there were 2 clients participating, and in federal FY 2024 (to date), there were 3 clients participating.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁷ The proposed amendments would not create any new requirements or costs; thus, an adverse economic impact is not indicated.

Small Businesses⁸ Affected:⁹

The proposed amendments would not affect small businesses.

Localities¹⁰ Affected¹¹

The proposed amendments would not affect local governments.

Projected Impact on Employment

The proposed amendments are not expected to affect total employment.

⁶ Pursuant to Virginia Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁷ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁸ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁹ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹⁰ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹¹ Virginia Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

The proposed amendments would not substantively affect the value of private property. Real estate development costs would not be affected.