

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES  
REHABILITATION SERVICES DIVISION**

**CHAPTER 1240-08-02  
GENERAL RULES**

**TABLE OF CONTENTS**

1240-08-02-.01	Purpose	1240-08-02-.04	Procedures
1240-08-02-.02	Definitions	1240-08-02-.05	Legal Basis
1240-08-02-.03	Repealed		

**1240-08-02-.01 PURPOSE.**

The Department of Human Services, Division of Rehabilitation Services is the designated State unit that is primarily concerned with vocational and other rehabilitation of individuals with physical, cognitive, mental, and sensory disabilities. The Division of Rehabilitation Services (the Division or DRS) is responsible for the Vocational Rehabilitation (VR) Program which includes the determination of eligibility, the determination of the nature and scope of VR services, and the provision of services for individuals consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice so that they may prepare for, secure, retain, advance in, or regain employment.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 71-1-104, and 71-1-105(a)(12); 34 C.F.R. Part 361; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendments filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.

**1240-08-02-.02 DEFINITIONS.**

The words and terms as used herein have the following meanings:

- (1) "Act" means the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. §§ 720 et seq. Words and terms defined in federal law and regulations are adopted by reference into these rules.
- (2) "Applicant" means an individual who applies to the VR Program for vocational rehabilitation (VR) services.
- (3) "Appropriate Modes of Communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed-captioned videos, specialized telecommunications services and audio recordings, Braille and large print materials, foreign language interpreters, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.
- (4) "Blind" means a person who has been determined to have not more than 20/200 vision acuity in the better eye with best correction, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(Rule 1240-08-02-.02, continued)

- (5) "Business Licenses" are defined as any license, permit, or other written authority required by a state, city, or other governmental entity in order to enter into an occupation or operate a business.
- (6) "CART (Communication Access Realtime Translation)" is defined as the instant translation of the spoken word into English text using real-time software to display text on a television, video screen, or other visual display.
- (7) "Client Assistance Program (CAP)" means a program available to help an individual understand the services and benefits available from VR services; request and pursue an appeal of a decision made by VR that affects the provision of VR services; and understand his or her rights and responsibilities under the law. The CAP is provided by Disability Rights Tennessee. Contact the CAP by mail at 2 International Plaza, Suite 825, Nashville, TN 37217; by phone (1-800) 342-1660 or TTY (1-888) 852-2852; or by email [GetHelp@disabilityrightstn.org](mailto:GetHelp@disabilityrightstn.org).
- (8) "Combined/Unified State Plan" means the plan for VR services submitted by the Division to the Rehabilitation Services Administration in compliance with Title I, Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014.
- (9) "Commissioner" means the executive head of the Department of Human Services.
- (10) "Competitive Integrated Employment" means work that:
  - (a) Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that:
    - 1. Is 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 required under the applicable State or local minimum wage law for the place of employment;
    - 2. 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; and
    - 3. 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; and
    - 4. Is eligible for the level of benefits provided to other employees; and
  - (b) Is at a location:
    - 1. Typically found in the community; and
    - 2. Where the employee with a disability interacts for the purpose of performing the duties of the position with the employees with the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g. customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and

(Rule 1240-08-02-.02, continued)

- (c) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.
- (11) “Contributing Services” means VR services that help or cause to bring about the rehabilitation of an individual’s functional limitations in order to achieve an employment objective but does not include VR support services.
- (12) “Counselor” means an employee of the Division who is designated in the job description as a VR Counselor.
- (13) “Customer” or “Individual” means a person who has been referred or has applied for VR services or has been determined eligible for and receives services from VR.
- (14) “Customized Employment” means competitive integrated employment, for an individual with a significant disability, that is:
  - (a) Based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability;
  - (b) Designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and
  - (c) Carried out through flexible strategies, such as:
    - 1. Job exploration by the individual; and
    - 2. Working with an employer to facilitate placement, including:
      - (i) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
      - (ii) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;
      - (iii) Using a professional representative chosen by the individual, or if elected self-representation, to work with an employer to facilitate placement; and
      - (iv) Providing services and supports at the job location.
- (15) “Department” means the Tennessee Department of Human Services.
- (16) “Designated State Unit” means the Division of Rehabilitation Services, which is primarily concerned with vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State’s VR Program.
- (17) “Disability” means any physical, cognitive, mental, or sensory impairment that limits an individual’s work activities and interaction with the world around them.
- (18) “Disability Priority” means the order to be followed in determining eligible individuals to be provided VR services when an order of selection has been implemented.
- (19) “Division” or “DRS” means the Division of Rehabilitation Services.

(Rule 1240-08-02-.02, continued)

- (20) "Due Process" means a course of informal or legal proceedings according to established rules and regulations for the enforcement and protection of customer rights.
- (21) "Eligible Individual" means a person who meets the basic requirements for eligibility and whose disability priority has been determined to be in an open priority category.
- (22) "Eligible Student" means a student that meets the definition of a Student with a Disability and is eligible for VR services under an Individualized Plan for Employment (IPE).
- (23) "Employment Outcome" means entering or retaining full-time or, if appropriate, part-time competitive employment in an integrated labor market to the greatest extent practicable; that meets the definition for competitive integrated employment; including supported employment, customized employment, and self-employment; or any other type of employment that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (24) "Fair Hearing" means a contested case proceeding before an impartial hearing officer designated by the Commissioner of the Department of Human Services who shall afford the individual and the Division, or their authorized representatives, the opportunity to present their case, with or without witnesses, to determine whether action or inaction by the county, area, regional, district, or state office is erroneous and should be corrected. Each party has an opportunity to disclose all relevant facts and issues, respond to and present evidence, conduct cross-examination, and submit rebuttal evidence as permitted under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. Hearings may be conducted by telephone, television, or other electronic means, and shall be open to public observation unless otherwise provided by state or federal law. Hearings are conducted in accordance with the Uniform Administrative Procedures Act codified at T.C.A. §§ 4-5-101 et seq. An aggrieved party may obtain a review of any final order by appealing to the chancery court in Davidson County, the county of the official residence of the commissioner, or the county where one or more of the petitioners resides, in accordance with T.C.A. § 4-5-322. If dissatisfied with the chancery court's decision, the individual may appeal further to the court of appeals of Tennessee, in accordance with T.C.A. § 4-5-323.
- (25) "Full- or Part-Time Employment" means the number of hours considered by an employer to be full-time or part-time.
- (26) "Impartial Hearing Officer" means an individual who:
  - (a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);
  - (b) Is not a member of the State Rehabilitation Council for the designated State unit;
  - (c) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;
  - (d) Has knowledge of the delivery of VR services, the VR services State Plan, and the Federal and State regulations governing the provision of services;
  - (e) Has received training with respect to the performance of official duties; and
  - (f) Has no personal, professional, or financial interest that could affect the objectivity of the individual.
- (27) "Individual with a Significant Disability" means an individual:

(Rule 1240-08-02-.02, continued)

- (a) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
  - (b) Whose vocational rehabilitation can be expected to require multiple VR services over an extended period of time; and
  - (c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.
- (28) “Informed Choice” means an ongoing counseling and guidance and person-centered practice that ensures an individual or, as appropriate, the individual’s representative has a range of options from which to make decisions and has the skills or, to the extent possible, the opportunity to develop such skills or support for evaluating options and for making decisions that reflect the individual’s strengths, resources, priorities, concerns, abilities, capabilities, and interests, including the consequences of choosing various options, in a manner that is understandable to the individual.
- (29) “Individual’s Representative” means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual’s representative.
- (30) “Legal Representative” means a court-appointed representative or parent of an individual under 18 years of age.
- (31) “Maximum Effort” means a specific method or action to achieve a particular benefit to pay for specified VR services. It may consist of a set policy or process which may be applied in appropriate cases. For example, the Division could have a cooperative agreement with State university officials for financial assistance officers to interview and evaluate the financial need of all VR sponsored students.
- (32) “Most Significantly Disabled” means an individual with a significant disability who meets VR’s criteria for an individual with a most significant disability.
- (33) “Non-significantly Disabled” means an individual who does not have a significant disability.
- (34) “Potentially Eligible” means a student that meets the definition of a Student with Disability and is receiving Pre-employment Transition Services.
- (35) “Qualified Personnel” means personnel possessing those specific qualifications and/or credentials for persons providing a function for which such qualifications are required.
- (36) “Student with a Disability” means an individual with a disability who is no younger than 14 and no older than 22 and is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (IDEA) or is a student who is an individual with a disability for purposes of section 504 of the Rehabilitation Act.

(Rule 1240-08-02-.02, continued)

- (37) “Unsupervised Access” means the right or ability of a person to be unattended with funds, personal property, or personal identification information of a VR customer or program participant with no other adults present and includes those whose employment duties include direct supervisory responsibility for individuals with such access.
- (38) “Unsupervised Contact” means the right or ability of a person to meet with or be unattended with a VR customer or program participant one-on-one with no other adults present and includes those whose employment duties include direct supervisory responsibility for such individuals.
- (39) “Vocational Rehabilitation Counselor” or “VR Counselor” means qualified staff that assist individuals with disabilities to overcome barriers to employment and meet their employment goals by preparing for entry or re-entry into competitive integrated employment.
- (40) “Vocational Rehabilitation Director” or “VR Director” means the individual who has been appointed in accordance with the hiring directives of the State’s Department of Human Resources as the head of the VR Program.
- (41) “Vocational Rehabilitation (VR) Program” or “VR Program” or “VR” means the publicly funded program authorized by the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. §§ 720 et seq., including the Tennessee Rehabilitation Center at Smyrna (TRCS), the VR Community Services Unit (CSU), and those funded wholly or in part through this authorization to provide employment related services consistent with the abilities, skills and interest of individuals with disabilities in a competitive, integrated setting.
- (42) “Youth with a Disability” means an individual with a disability who is no younger than 14 and no older than 24. The individual may or may not be eligible for an educational program under IDEA.

**Authority:** T.C.A. §§ 4-3-1208, 4-5-202, 4-5-301, et seq., 49-11-601, et seq., 71-1-104, and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. Part 361; 34 C.F.R. §§ 370.1, et seq.; and Executive Order No. 43 (1983). **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendment filed November 10, 2009; effective April 30, 2010. Amendments filed October 5, 2017; effective January 3, 2018. Amendments filed December 18, 2019; effective March 17, 2020. Amendments filed February 29, 2024; effective May 29, 2024.

#### **1240-08-02-.03 REPEALED.**

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., 71-1-104, and 71-1-105(12); 29 U.S.C. §§ 720, et seq.; and 34 C.F.R. §§ 361.5 and 361.48. **Administrative History:** Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Repeal filed October 5, 2017; effective January 3, 2018.

#### **1240-08-02-.04 PROCEDURES.**

- (1) Procedures are developed by VR in accordance with the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, and federal regulations.
- (2) Procedures define the requirements for service delivery and associated case management practices including allowable fees and specific requirements for authorizing services.

**Authority:** T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; and 34 C.F.R. Part 361. **Administrative History:** Original rule filed September 30, 1985; effective October 30,

(Rule 1240-08-02-.04, continued)

*1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendments filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.*

**1240-08-02-.05 LEGAL BASIS.**

The Department of Human Services, Division of Rehabilitation Services has designated the State's VR Program as the sole State agency to administer the VR Services portion of the Unified or Combined State Plan and as such is authorized to submit the VR Services portion of the combined/unified plan as a condition for receipt of federal funds under Title I and Title VI of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, and agrees to administer the VR Program in accordance with the Combined/Unified State Plan, the Act, and all applicable regulations, policies, and procedures established by the Secretary.

**Authority:** *T.C.A. §§ 4-5-202, 49-11-601, et seq., and 71-1-105(a)(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. § 361.13; and Executive Order No. 43 (1983). Administrative History:* *New rule filed July 12, 2002; effective September 25, 2002. (Formerly 1240-08-02-.04). Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendments filed October 5, 2017; effective January 3, 2018. Amendments filed February 29, 2024; effective May 29, 2024.*