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Sent: Tuesday, January 29, 2013 9:20 AM

Cc: Doney, Joseph; West, Edward; DeRobertis, Sandy; Greco, Michael A - DWD; Richard, JoAnna - DWD

Subject: Follow up - Informal guidance on Electronic Case destruction and related Post Employment policy issues

Thank you for your inquiry and request for input from RSA on the proposed changes in WDVR's process for case record retention and maintenance, as well as the implications for access to "Post-Employment" services to VR consumers with closed cases that fall within the proposed time frame for case record destruction of seven years.

In general, regulations at 34 CFR 80.42(b) of the Education Department General Administrative Regulations (EDGAR) require State VR agencies, as a U.S. Department of Education (ED) grantee, to retain financial and programmatic records related to the administration of the VR program for three years. The starting date for the three-year period is the date the VR Agency submits its final SF-269/425 for that grant award period in which the case service record was closed (34 CFR 80.42(c)(1)). The regulations at 34 CFR 361.47 establish the mandatory components of an individual's case service record that VR Agencies must maintain for purposes of the VR program. With this said; your proposed change in your process for case record retention and destruction at a seven year mark, whether they are electronic case records or hard case files would be well within the regulatory requirements for a record retention policy.

With respect to the provision of post-employment services, regulation 34 CFR 361.5(b)(42), defines Post-employment services to be services that are needed for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Additional regulatory notation is provided in 361.5(b)(42), further clarifying that the provision of post-employment services is consistent with the employment outcome achieved. In addition, the services provided should not be of a complex and comprehensive nature and, thus, should be limited in scope and duration. Finally, additional notation within this section clarifies that post-employment services are to be provided under an amended IPE.

Implementing regulation 34 CFR 361.48 (o), identify "Post-employment services" as it is defined in 361.5(b)(42), as an appropriate vocational rehabilitation service available to assist in preparing for, securing, retaining, or regaining an employment outcome. Other supporting regulation with regard to clarifying the intent and provision of "Post-employment services" can be found at 361.46(a) and (c)(1), which identify the mandatory components and content of the individualized plan for employment, including, if appropriate, an identification of an expected need for post-employment services prior to closing the record of services of an individual who has achieved an employment outcome.

RSA's opinion as it relates specifically to providing post-employment services to any individual without the benefit of access to closed case records regardless of how long the case has been closed would be inappropriate, as you would not have access to supporting documents which establish the mandatory components of an individual's case service record as noted above. Additionally, you would not have access to an individualized plan for employment of that individual, which provision for post-employment requires a plan amendment as noted in 361.5(b)(42).

I hope this information will assist you as you move forward in updating your agency policies and best practices towards records management and provision of providing post-employment services. Thank you for your patience in this matter.

Sincerely,

Zera Hoosier
Liaison
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