

**Joint Agreement between the New York State Office of Children and  
Family Services Commission for the Blind and the New York State  
Education Department's Office of Special Education for the  
Coordination of Transition Services  
to Students Who Are Legally Blind**

## **Introduction**

The purpose of this agreement between the New York State Office of Children and Family Services (OCFS) New York State Commission for the Blind (NYSCB) and the New York State Education Department's (NYSED) Office of Special Education (OSE) is to facilitate the transition of students who are legally blind, including those with additional disabilities, from school to post-school activities, including the receipt of pre-employment transition services, transition services, and other vocational rehabilitation services. This partnership between NYSCB and OSE will help to prepare students with disabilities for entry into competitive integrated employment through collaborative partnerships among transition specialists, school districts, and NYSCB district offices throughout New York State.

This agreement reflects federal requirements, including Section 612(a)(12) of the Individuals with Disabilities Education Act (IDEA) of 2004 and Title I Section 101(a)(11)(D) of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), and provides an overview of the purpose, objectives, and joint responsibilities of each party in the provision of transition services for students who are legally blind, including pre-employment transition services (Pre-ETS) for students with disabilities.

## **NYSCB and OSE Agency Information**

NYSCB is the designated State agency to provide vocational rehabilitation services to individuals who are legally blind. The mission of NYSCB is to enhance employability, maximize independence, and assist in the development of the capacities and strengths of people who are legally blind. The agency also provides services to children who are legally blind and their families starting at birth so that children can begin to work on the rehabilitation and life skills needed to become independent adults in the future. One of NYSCB's primary objectives is to assist participants in achieving economic self-sufficiency and full integration into society. All services are available to New York State residents who are legally blind. Legal blindness is defined as having a visual acuity of 20/200 or less in the better or stronger eye with best correction or a restricted field of vision of 20 degrees or less in the better or stronger eye.

NYSCB has Transition Counselors and Children's Consultants in each district office who are vocational rehabilitation counselors who specialize in working with youth who are legally blind. These counselors work closely with students, families, and school district personnel to facilitate the coordination of appropriate transition services for students who are legally blind. The earlier planning begins, the sooner supports and services can be coordinated to achieve the goals of the student. Students who are legally blind may be eligible to receive federally funded vocational rehabilitation services beginning at age 10

through NYSCB. Families of students of all ages who are suspected of being legally blind should be encouraged to apply for services through NYSCB. Services are provided through seven NYSCB district offices located throughout the State. District office information can be found on NYSCB's website (<http://ocfs.ny.gov/main/cb/distoffices.asp>).

NYSCB counselors can offer school personnel knowledge of rehabilitation services and outcomes, identify the need for involvement of State and community agencies, and provide information to assist in the selection of goals (assessment, accommodations, labor trends, and job entry qualifications). NYSCB may provide consultation for vocational evaluation interpretation, participate in the decision-making with committees on special education (CSE), coordinate with adult services, and provide peer counseling, role-modeling, and job placement analysis. NYSCB may be able to provide job-related occupational tools, purchase low vision devices, facilitate summer employment, and assist in finding full-time employment for vocational rehabilitation (VR) participants with an approved individualized plan for employment (IPE).

OSE works to promote educational equity and excellence for students with disabilities through its roles and responsibilities to:

- oversee the implementation of federal and State laws and regulations for students with disabilities;
- provide general supervision and monitoring of all public and private schools serving New York State preschool and school-age students with disabilities;
- establish a broad network of technical assistance centers and providers to work directly with parents and school districts to provide current information and high-quality professional development and technical assistance to improve results for students with disabilities;
- ensure a system of due process, including special education mediation and impartial hearings; and
- meet with stakeholders through the Commissioner's Advisory Panel for Special Education Services.

### **Purpose of this Agreement**

The purpose of this agreement is to:

- 1) strengthen shared efforts to prepare youth who are legally blind for successful careers, community jobs, and independent living;
- 2) outline a collaborative framework for coordinating State and local services and resources; and
- 3) provide guidance for coordinating plans, policies, and procedures developed to facilitate the transition of students who are legally blind from school to post-school activities, including the receipt of vocational rehabilitation services leading to employment.

### **Construction Clause**

Nothing under Title I of the Rehabilitation Act will be construed to reduce the obligation

under IDEA of a school district or any other agency to provide or pay for any transition services that are also considered special education or related services and are necessary for ensuring a free appropriate public education (FAPE) for students with disabilities.

## **Objectives**

The following section outlines the general objectives for this agreement. These objectives are based upon federal and State regulatory requirements for both NYSCB and OSE. The objectives include:

### **1. Consultation and Technical Assistance. NYSCB and OSE will continue to:**

- provide consultation and technical assistance to assist local educational agencies (LEAs or "school districts") in planning for the transition of students who are legally blind from school to post-school activities, including pre-employment transition services and vocational rehabilitation services;
- provide guidance and professional development to educational and vocational rehabilitation personnel responsible for facilitating the transition planning process and the development and coordination of student individualized education programs (IEPs) and IPEs;
- provide information about each agency's roles and responsibilities, including financial responsibilities, and the State lead agencies and qualified personnel responsible for transition services;
- coordinate efforts to satisfy the documentation requirements set forth in Title IV of the Rehabilitation Act regarding students with disabilities who are considering sub-minimum wage employment as a post-high school option (Section 511) and pre-employment transition services (Section 113); and
- establish policies and procedures to facilitate the transition of students with disabilities, including outreach to and identification of students with disabilities who need pre-employment transition services and/or transition services.

### **2. Transition Planning:**

OSE and NYSCB will work in collaboration with school districts and other State and local agencies to foster a coordinated approach for the provision of transition services, including special education and related services, as required under IDEA. Local school districts are responsible for providing transition services that improve academic and functional achievement and facilitate the movement of students with disabilities from school to post-school activities, including but not limited to, post-secondary education, vocational education, employment, continuing and adult education, adult services, independent living and community participation. NYSCB will provide Pre-ETS and VR/transition services that help students begin to identify and explore their career interests and will lead to employment outcomes in competitive integrated employment or supported employment.

### Roles and Responsibilities

For students with disabilities who are eligible for VR services and are also receiving

transition services under IDEA:

- School districts have primary responsibility for the programmatic and fiscal requirements related to transition planning and services for their students who are legally blind, consistent with federal and State law, regulation, and policy implementing IDEA.
- NYSCB is programmatically and fiscally responsible for providing VR services not otherwise mandated through special education requirements, in accordance with federal and State law, regulation, and policy implementing the requirements of the Rehabilitation Act, as amended.
- With the consent of the parent or guardian, or consent of a student 18 years of age or older, school districts will invite NYSCB counselors to attend CSE meetings where the purpose is to consider the post-secondary goals for the student and the transition services needed to assist the student in reaching those goals in order to provide technical assistance, case consultation, information, and referral.
- NYSCB and OSE will continue to work together to implement consistent policies and procedures for transition planning and services, including, but not limited to, student referral and access to VR services, including pre-employment transition services and transition services.
- NYSCB and OSE will continue to work in collaboration with school districts and other State agencies to create a coordinated approach to the provision of all transition services and to eliminate the duplication of assessments, services, and reporting requirements, and to promote increased access to work-based learning opportunities for students who are legally blind.
- When coordinating services through the IEP and IPE, the student and, as appropriate, the student's family are considered an integral part of the planning process and help initiate decision making regarding the student's needs, goals, and services.

### **Joint/Shared Responsibilities**

On a central administration level, NYSCB and OSE share joint responsibility for the following:

- meeting as needed to address systems, policy, practice, and funding issues that facilitate or impact the transition of students who are legally blind from school to work and/or post-secondary education;
- minimizing redundant services and maximizing resources in both systems;
- posting this agreement on their agency websites and disseminating it to key stakeholders;
- assuring assistance to students who are legally blind in achieving competitive integrated employment to the maximum extent possible;
- collaborating on the development, review, and distribution of memoranda and other guidance materials regarding the provision of transition services and pre-employment transition services to students who are legally blind, and requirements regarding students seeking or continuing in sub-minimum wage employment upon exiting high school, including data identification and collection;
- working collaboratively to develop procedures for outreach and identification of students who are legally blind and need transition services;

- sharing training material and extending invitations to trainings;
- facilitating the identification of students who are legally blind who may benefit from vocational rehabilitation services as early as possible during the transition planning process;
- collaborating to ensure alignment of the IEP with the IPE by providing guidance to education and vocational rehabilitation personnel for facilitating the transition planning process and the development and coordination of IEPs and IPEs; and
- modifying this agreement as necessary.

### **Responsibilities of OSE**

OSE shall continue to undertake the following responsibilities with respect to the education and transition planning for students with disabilities:

- designate OSE personnel to be responsible for the provision of technical assistance, consultation, and the development of statewide program strategies and procedures applicable to students with disabilities;
- assure that school districts are implementing the special education requirements for transition services as specified by IDEA and the Regulations of the Commissioner of Education including, as appropriate, documentation on a student's IEP of the services provided by NYSCB;
- fund a network of professional development specialists focused on assisting school districts with implementing effective transition planning, programs, and services;
- promote access, as appropriate, for students with disabilities to career and technical education and work-based learning experiences;
- provide technical assistance to NYSCB vocational rehabilitation personnel through formal and informal training, joint problem solving, and exchange of information on policies and procedures; and
- designate OSE staff to participate on the NYSCB State Rehabilitation Council and relevant subcommittees.

### **Responsibilities of NYSCB**

NYSCB shall continue to undertake the following responsibilities with respect to transition planning and vocational rehabilitation services for eligible youth who apply for NYSCB services:

- designating vocational rehabilitation personnel to be responsible for the provision of technical assistance, consultation, and the development of statewide program strategies and procedures applicable to youth who are legally blind, including Pre-ETS services available to students 14-21 years of age;
- facilitating and coordinating the smooth transition of students with disabilities ages 14-21, from school to post-school activities, including the receipt of pre-employment transition services, transition services, and other vocational rehabilitation services;
- sharing with local school districts information about the NYSCB Children's Program and vocational rehabilitation services to encourage referrals to NYSCB as soon as legal blindness is suspected and make the application for services

widely available. Outreach efforts will include both eligible and potentially eligible individuals who are legally blind for the purpose of informing students about pre-employment transition services and the vocational rehabilitation program. Outreach efforts will include a description of the VR program, eligibility requirements, application procedures, and scope of services that may be provided to individuals. Outreach efforts will also include students receiving services under section 504 of the Rehabilitation Act who are eligible to receive pre-employment transition services and VR/transition services through NYSCB;

- networking with school and community resources to develop and maintain referral sources to identify and reach students who are legally blind;
- facilitating identification of youth who are legally blind who may benefit from vocational rehabilitation services as early as possible during the transition planning process;
- advising NYSCB staff to attend CSE meetings to provide employment information, technical assistance, case consultation, and information/referral, as needed, when invited with the consent of the parent or a student 18 years of age or older;
- developing an approved (signed by the student and VR counselor) IPE within 90 days from the date of eligibility determination and prior to the eligible student exiting school;
- assigning vocational rehabilitation counseling personnel to liaison relationships with educational agencies to formalize collaborative approaches to transition planning, outreach, and referrals;
- providing technical assistance on vocational rehabilitation to school district personnel through formal and informal training, joint problem solving, and exchange of information on policies and procedures;
- implementing policies and procedures that allow flexibility with respect to assessment, eligibility determination, and career preparation. NYSCB will determine eligibility based on NYSCB policies and procedures within 60 days from the date of an application;
- coordinating with school district personnel, with the consent of the parent or a student 18 years of age or older, to obtain available transition documents (e.g. annual guidance reviews, career assessments, career plan, records of work-based learning experiences, employability profiles, Student Exit Summary); and
- maintaining data to assist with improving collaboration efforts, vocational rehabilitation services, and employment outcomes and tracking each student in receipt of pre-employment transition services and each service received.

### **Section 511 Sub-minimum Wage**

Under Section 511 of the Rehabilitation Act, a section 14(c) certificate holder under the Fair Labor Standards Act is prohibited from employing any student with a disability who is 24 years of age or younger at sub-minimum wage, unless such individual has had opportunities and access to information and services to assist them in achieving competitive integrated employment. The certificate holder needs documentation of the student's completion of all the following activities:

- pre-employment transition services under the Rehabilitation Act, as amended by

- WIOA, or transition services under IDEA; and
- application for VR services with one of the following results:
  - the individual was determined ineligible for VR services; or
  - the individual was found eligible for VR services, had an approved IPE, and was unable to achieve an employment outcome in competitive, integrated employment after a reasonable period 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 competitive integrated employment and the counseling and information was not for employment at sub-minimum wage.

NYSCB and OSE have a shared understanding of assurance that neither the school district nor OSE will enter into any arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of operating a program under which a student with a disability is engaged in work at a sub-minimum wage. NYSCB is committed to making sure that all youth seeking employment at sub-minimum wage are apprised of their options and provided the opportunity to explore their options for competitive integrated employment.

### **Joint Responsibilities under WIOA Section 511**

- NYSCB will provide technical assistance and consultation to school district personnel about regulatory requirements of Section 511 regarding students seeking or continuing sub-minimum wage employment;
- school districts should refer any student who is legally blind and interested in pursuing sub-minimum wage employment to NYSCB;
- NYSCB will work with any student eligible for services to develop an IPE that will include a specific employment goal consistent with competitive integrated employment, pre-employment transition services, and any other services necessary to achieve that goal within a reasonable period as defined in 34 CFR 397.20(b)(3)(i), 34 CFR 307.20(b)(3)(ii), and 34 CFR 397.20(a)(2)(ii)(A); and
- NYSCB will collaborate with school districts to establish a procedure to identify students who are legally blind and interested in seeking or continuing sub-minimum wage employment and work cooperatively to ensure that the student has obtained all the required documentation indicating they have completed all the required activities in section 511 of WIOA and transition services under IDEA prior to beginning work at sub-minimum wage. NYSCB and the school district will retain copies of the documentation in a manner consistent with the requirements of 34 CFR 397.

### **Sharing of Information:**

This agreement requires the sharing of information, including required documentation and data between NYSCB, OSE and school districts. Information about participants of NYSCB and students from school districts will be released in conformance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99, IDEA, and the regulations that implement the Rehabilitation Act governing confidentiality of

personally identifiable information (34 CFR 361.38)).

**Interagency Disputes:**

For the resolution of disputes arising over issues addressed in this agreement, the agencies agree that attempts to resolve disputes will occur at the local level. If a resolution cannot be reached, NYSCB and OSE agree to resolve the dispute in accordance with established agency policies and procedures.

This agreement will be reviewed annually and may only be modified with written agreement from both parties.

By signing below, the signatories agree to these terms and conditions on behalf of their respective offices.



Phyllis Morris  
Chief Financial Officer  
NYSED



Derek J. Holtzclaw  
Deputy Commissioner for Administration  
OCFS

DATE: FEB 28 2020

DATE: 3/11/2020