

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**22 VAC 30 -20 Provision of Vocational Rehabilitation Services**  
**Department for Aging and Rehabilitative Services**  
**Town Hall Action/Stage: 4736 / 7990**  
November 1, 2017

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### Summary of the Proposed Amendments to Regulation

The *Provision of Vocational Rehabilitation Services* regulation includes order of selection criteria for when the Department for Aging and Rehabilitative Services (DARS) cannot provide the full range of vocational rehabilitation services to all eligible individuals who apply because of insufficient resources. At the direction of the federal Rehabilitation Services Administration (RSA), DARS proposes to amend the order of selection criteria.

### Result of Analysis

The benefits likely exceed the costs for all proposed changes.

### Estimated Economic Impact

Federal regulation 34 CFR 361.36<sup>1</sup> requires the department to develop and implement an order of selection if a lack of funds prevents it from providing the full range of vocational rehabilitation services to all eligible individuals. The current regulation has order of selection criteria as follows:

1. Persons eligible and presently receiving services under an individualized plan for employment;
2. Persons referred and needing diagnostic services to determine eligibility; and

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<sup>1</sup> See <https://www.law.cornell.edu/cfr/text/34/361.36>

3. Persons determined to be eligible for services, but not presently receiving services under an individualized plan for employment, shall be served according to the following order of priorities:

- a. Priority I. An individual with a most significant disability in accordance with the definition in [22VAC30-20-10](#);<sup>2</sup>
- b. Priority II. An individual with a significant disability that results in serious functional limitations in two functional capacities;
- c. Priority III. An individual with a significant disability that results in a serious functional limitation in one functional capacity; and
- d. Priority IV. Other persons determined to be disabled, in order of eligibility determination.

The RSA, the federal agency that regulates the state-federal vocational rehabilitation program, is requiring that DARS reduce the number of its categories for the order of selection for persons determined to be eligible for services. The reason given is that there is not enough difference between current priority category two and current priority category three. Therefore, RSA is requiring that priority category two and priority category three be combined into one category. To accomplish this, DARS proposes to: amend Priority II to “An individual with a significant disability that results in a serious functional limitation in at least one functional capacity,” eliminate the current Priority III text, and relabel the current Priority IV as Priority III.

According to DARS, the proposed changes are not expected to significantly affect which applicants receive services. The ordering of people would be close to the same. Following RSA’s direction helps insure the continued receipt of federal funds for vocational rehabilitation services. Thus the proposed amendments would produce a net benefit.

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<sup>2</sup> The definition in [22VAC30-20-10](#) is “an individual with a significant disability who meets the department's criteria for an individual with a most significant disability.” DARS reports the following criteria. The individual’s disability shall be considered to be most significant when the counselor documents that the individual meets all three of the following criteria:

1. Is an individual with a significant disability, and
2. Has a physical or mental impairment that seriously limits three or more functional capacities in terms of an employment outcome, and
3. Whose vocational rehabilitation can be expected to require multiple core vocational rehabilitation services for six months or more.

**Businesses and Entities Affected**

The proposed amendments pertain to individuals who are qualified to receive vocational rehabilitation services. In fiscal year 2016 29,399 individuals received vocational rehabilitation services through DARS' vocational rehabilitation program.<sup>3</sup>

**Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

**Projected Impact on Employment**

The proposed amendments do not significantly affect employment.

**Effects on the Use and Value of Private Property**

The proposed amendments do not affect the use and value of private property.

**Real Estate Development Costs**

The proposed amendments do not affect real estate development costs.

**Small Businesses:****Definition**

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.”

**Costs and Other Effects**

The proposed amendments do not affect costs for small businesses.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not adversely affect small businesses.

**Adverse Impacts:****Businesses:**

The proposed amendments do not adversely affect businesses.

**Localities:**

The proposed amendments do not adversely affect localities.

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<sup>3</sup> Source: *Virginia State Rehabilitation Council 2016 Annual Report*

**Other Entities:**

The proposed amendments do not adversely affect other entities.

**Legal Mandates**

**General:** The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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.