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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED-2014-OSERS 0043]

Final Priority; National Institute on Disability and Rehabilitation Research--Rehabilitation Research and Training Centers

[CFDA Number: 84.133B-3.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, we announce a priority for an RRTC on Employment for Individuals with Intellectual and Developmental Disabilities. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. We take this action to focus research attention on areas of national need. We intend for this priority to contribute to improved employment outcomes of individuals with intellectual and developmental disabilities.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through well-designed research, training, technical assistance, and dissemination activities in important topical areas. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, family members, policymakers, and other research stakeholders. Additional information on the RRTC program can be found at: <http://www2.ed.gov/programs/rrtc/index.html>.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority (NPP) for this program in the Federal Register on March 3, 2014 (79 FR 11742). That notice contained background information and our reasons for proposing the particular priority.

Except for one revision explained in the Analysis of Comments and Changes section, there are no differences between the proposed priority and this final priority.

Public Comment: In response to our invitation in the NPP, three parties submitted comments on the proposed priority.

Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the notice of proposed priority follows.

Comment: One commenter questioned the need for this priority. Specifically, the commenter believed that with the current Federal budget restraints, we should not be spending money on any type of research.

Discussion: The proposed RRTC on Employment for Individuals with Intellectual and Developmental Disabilities is consistent with the research agenda outlined in NIDRR's Long-Range Plan for Fiscal Years 2013-2017 (Plan), which was published in the Federal Register on April 4, 2013 (78 FR 20299). One of the goals of the Plan is to establish a balanced distribution of priorities focused on improved outcomes in the domains of employment, community living and participation, and health and function that address the needs of individuals with different disabilities, personal characteristics, and social circumstances. NIDRR believes that the proposed RRTC on Employment for Individuals with Intellectual and Developmental Disabilities is consistent with that goal and will help to improve outcomes for this population.

More specifically, as we discussed in the NPP, there is a need to increase knowledge about effective ways to prepare persons with intellectual and developmental disabilities in their homes, schools, and communities for competitive integrated work; effectively bundle individual practices and experiences associated with desirable employment outcomes into more effective programs of employment supports; and scale up effective practices and programs to provide substantially increased opportunities for individuals with intellectual and developmental disabilities to experience well-developed, effective employment support. We believe this priority will focus research attention on this area of national need.

Changes: None.

Comment: One commenter stated that individuals with the most severe intellectual and developmental disabilities are often assumed to be unable to work, and therefore not included in research that could impact future employment supports and outcomes for this population. The commenter also suggested that "customized employment"¹ could hold promise for improving employment outcomes for individuals with the most severe intellectual and developmental

¹ See

www.dol.gov/odep/categories/workforce/CustomizedEmployment/what/ for more information about customized employment.

disabilities. The commenter recommended that we revise the priority to encourage RRTC's to include individuals with the most severe intellectual and developmental disabilities in its activities.

Discussion: NIDRR agrees with the commenter that research and related activities are needed to improve employment outcomes for individuals with disabilities, especially individuals with the most severe disabilities. However, we do not want to limit applicants' choices by specifying or recommending the severity of disability for their target population. The priority language allows applicants to focus their research and related activities on individuals with intellectual and developmental disabilities as a group, or on specific subpopulations. With this field-initiated priority, we purposefully allow researchers to specify and justify their target population.

Changes: None.

Comment: One commenter suggested that NIDRR modify the priority to require the involvement of directors of State vocational rehabilitation agencies in the RRTC's activities.

Discussion: Paragraph (c)(iv) of the priority requires the RRTC to contribute to improving employment outcomes by involving key stakeholder groups in its research

activities. The priority does not require that any particular stakeholder group be involved in its activities because the most critical stakeholders may vary depending on the specific activity proposed. However, representatives of State VR agencies are listed as an example of a key stakeholder. In addition, nothing in the priority precludes an applicant from proposing the participation and involvement of State VR agency directors in their RRTC activities. The peer review process will determine the merits of each proposal.

Changes: None.

Comment: None

Discussion: After further review, we believe that it would strengthen this priority to highlight in this priority the importance of employment of individuals with intellectual and developmental disabilities in integrated competitive settings. This concept is introduced in the background section of the NPP, published in the Federal Register on March 3, 2014 (79 FR 11742). Specifically, the NPP introduced data showing that, of 566,188 individuals with intellectual and developmental disabilities in integrated employment, sheltered employment, and non-work settings in 2010, only 19 percent were in integrated, competitive employment. For this reason, we want to make even clearer

our belief that individuals with intellectual and developmental disabilities have a right to earn a real wage (at least minimum wage) in an environment where there are people with and without disability.

Changes: We have added integrated, competitive employment to the overarching purpose statement in the introductory language of the priority.

FINAL PRIORITY:

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for an RRTC on Employment for Individuals with Intellectual and Developmental Disabilities.

The RRTC must contribute to improving the employment outcomes, particularly in integrated, competitive employment settings, of individuals with intellectual and developmental disabilities by:

(a) Conducting well-designed research activities in one or more of the following priority areas, focusing on individuals with intellectual and developmental disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with intellectual and developmental disabilities:

(i) Technology to improve employment outcomes for individuals with intellectual and developmental disabilities.

(ii) Individual, work environment, or employer factors associated with improved employment opportunities or outcomes for individuals with intellectual and developmental disabilities.

(iii) Interventions that contribute to improved employment outcomes for individuals with intellectual and developmental disabilities. Interventions include any one or combination of the following: strategies, practices, programs, policies, or tools that, when implemented as intended, contribute to improvements in opportunities or outcomes for individuals with disabilities, and may include interventions focused on individuals, families, employers, or service providers.

(iv) Effects of current or modified government practices, policies, and programs on employment outcomes for individuals with intellectual and developmental disabilities.

(v) Practices and policies that contribute to improved employment outcomes for transition-aged youth with intellectual and developmental disabilities.

(b) Identifying and focusing its research on one or more specific stages of research, including specifically at least one significant evaluation project focused on scaling up existing validated employment interventions or programs to multiple employment settings. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages should be clearly specified. These stages and their definitions are in the notice of final priorities and definitions published in the Federal Register on May 7, 2013 (78 FR 26513).

(c) Serving as a national resource center related to employment for individuals with intellectual and developmental disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance on job development and placement, job training and support, customized employment, and other aspects of supported employment to school-based transition programs, employment service providers, employers, individuals with intellectual and developmental disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to vocational rehabilitation, school-based transition programs, and other employment service providers, to achieve integrated, competitive employment outcomes for individuals with intellectual and developmental disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating, in accessible formats, research-based information and materials related to employment for individuals with intellectual and developmental disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC. Such stakeholder groups may vary depending on the specific activity proposed, but could include representatives of agencies such as the State Developmental Disabilities program/service agencies, State Developmental Disability Planning Councils, State Protection and Advocacy Agencies, State vocational rehabilitation agencies, and State Employment First

coalitions, as well as consumer advocacy agencies such as The Arc, UCP, TASH, and People First.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives

and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. The new RRTC will generate and promote the

use of new knowledge that likely will improve the employment outcomes for individuals with disabilities.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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Dated: June 20, 2014

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Acting Assistant
Secretary for
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Rehabilitative Services.

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