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The Workforce Innovation & Opportunity Act & Implementing Regulations



WINTAC
Workforce Innovation Technical Assistance Center

www.wintac.org

Major Changes in WIOA For VR

- Pre-employment transition services
- Alignment/Integration of VR with the Workforce Development System
- Competitive Integrated Employment
- Supported Employment
- Customized Employment
- Subminimum Wage Employment (Section 511)
- Changes in Eligibility - Trial Work Experience and “Advancing in” Employment
- 90 day IPE timeline
- The common performance measures

WIOA Core Partners

DOL Programs Include:

- the Adult Program (title I),
- the Dislocated Worker Program (title I),
- the Youth Program (title I),
- the Wagner-Peyser Act Program (title III),

Department of Education Programs Include:

- the Adult Education and Literacy Program (title II), and
- the Vocational Rehabilitation Program (title IV).



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PRE-EMPLOYMENT TRANSITION SERVICES

Pre-employment Transition Services

Background

- Section 110 of the *Rehabilitation Act of 1973* (*Rehabilitation Act*) was amended by the *Workforce Innovation and Opportunity Act (WIOA)* and took effect on July 22, 2014.
- Section 113, pre-employment transition services (PETS), was added.

Reserve Requirement

- State reserve requirement of no less than 15% of their Federal Award for pre-employment transition services (Section 110(d), and Section 113(a))

WIOA

- Increases opportunities to practice and improve workplace skills, such as through internships and other work-based learning opportunities; and
- Requires VR agencies to reserve 15 percent of the Federal VR allotment to provide, or arrange pre-employment transition services for students with disabilities
- Services be coordinated with local educational agencies (LEA).

Transition Related Definitions

Student with a disability (section 7(37) of the Act and §361.5(c)(51));

- Youth with a disability (section 7(42) of the Act and §361.5(c)(58));
- Pre-employment transition services (section 7(30) of the Act and §361.5(c)(42)); and
- Transition services (§361.5(c)(55)).

Student with a Disability

A student with a disability is an individual who:

- Is in an educational program; and
- Meets certain age requirements; and
- Is eligible for and receiving special education or related services under IDEA; or
- Is an individual with a disability for purposes of section 504 of the Act.

Student with a Disability

Educational programs include: Secondary education programs;

- Non-traditional or alternative secondary education programs, including home schooling;
- Postsecondary education programs; and
- Other recognized educational programs, such as those offered through the juvenile justice system.

Youth with a Disability

A youth with a disability is: An individual with a disability;

- Not younger than 14 years of age; and
- Not older than 24 years of age.
- There is no requirement that a “youth with a disability” be participating in an education program.
- The age range for a “youth with a disability” is typically broader than that for a “student with a disability.”

Pre-Employment Transition Services Overview

Services that are an early start at job exploration that:

- Must be made available Statewide to all students with disabilities in need of such services, regardless of whether a student has applied for VR services;
- May begin once a student requests or is recommended for one or more pre-employment transition services and documentation of a disability is provided to the VR agency;
- Assist students with identifying career interests to be further explored through additional VR services, including transition services;

Pre-Employment Transition Services Overview

- Must be provided or arranged in collaboration with LEAs; and
- Are the only activities that can be paid for with the funds reserved under section 110(d)(1) of the Act.

Definition of “Pre-Employment Transition Services”

Pre-employment transition services (section 7(30) of the Act and §361.5(c)(42)) are:

“Required” activities (section 113(b) of the Act and §361.48(a)(2));

“Authorized” activities (section 113(c) of the Act and §361.48(a)(3)); and

“Pre-employment transition coordination” activities (section 113(d) of the Act and §361.48(a)(4)).

Who can receive Pre-ets?

Pre-employment transition services are provided to “students with disabilities” who are:

Eligible for VR services; or

Potentially eligible for VR services (i.e. all students with disabilities, including those who have not applied or been determined eligible for VR services).

What are the Required Pre-Employment Transition Services?

Provided individually or in a group setting:

- job exploration counseling;
- work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment to the maximum extent possible;
- counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- workplace readiness training to develop social skills and independent living; and
- instruction in self-advocacy, which may include peer mentoring.

Job Exploration Counseling in a Group Setting

May be provided in a classroom or community setting and include:

- Information regarding in-demand industry sectors and occupations, as well as nontraditional employment;
- Information about labor market composition;
- Administration of vocational interest inventories; and
- Identification of career pathways of interest to the students.

Job Exploration Counseling- Individualized Services

May be provided in school or the community and include individualized discussions relevant to the student about:

- The student's vocational interest inventory results;
- In-demand occupations;
- Career pathways; and
- Local labor market information that applies to the student's particular interests.

Work-based Learning Experiences

May include opportunities that are: In-school;
After school; or Outside the traditional school setting
(including internships).

- Work-based learning experiences must be provided in an integrated setting in the community to the maximum extent possible.
- VR must exhaust all opportunities for work-based learning experiences in integrated settings before placing an individual in a non-integrated setting.

WBL Experiences in a Group Setting

May include:

- Coordinating a school-based program of job training and informational interviews to research employers;
- Work-site tours to learn about necessary job skills;
- Job shadowing; or
- Mentoring opportunities in the community

WBL Experiences on an individual basis

May include paid or unpaid:

- Internships;
- Apprenticeships; (not including pre-apprenticeships and Registered Apprenticeships),
- Short-term employment;
- Fellowships; or
- On-the-job trainings located in the community.

Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Educational Programs at IHEs

Examples in a Group Setting include providing information on:

- Course offerings;
- Career options;
- The types of academic and occupational training needed to succeed in the workplace; and
- Postsecondary opportunities associated with career fields or pathways.

Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Educational Programs at IHEs

Examples on an Individual Basis may include:

- Advising students and parents or representatives on academic curricula;
- Providing information about college application and admissions processes;
- Completing the Free Application for Federal Student Aid (FAFSA); and
- Providing resources to support individual student success in education and training (i.e., disability support services).

Workplace Readiness Training

Offered in a group setting aimed to develop social and independent living skills necessary to prepare for employment such as:

- Communication and interpersonal skills;
- Financial literacy;
- Group orientation and mobility skills (i.e., to access workplace readiness training or to learn to travel independently);
- Job-seeking skills; and
- Understanding employer expectations for punctuality and performance, as well as other “soft” skills necessary for employment.

Workplace Readiness Training

Offered individually:

- May include the same services as those described in a group setting that would be tailored to an individual's needs in a work readiness training program
- Provided in an educational or community-based setting through instruction, as well as opportunities to acquire and apply knowledge.

Instruction in Self Advocacy

Examples in a Group Setting may include opportunities for students to:

- Learn about their rights and responsibilities;
- Learn how to request accommodations or services and supports;
- Communicate their thoughts, concerns, and needs, in order to prepare them for peer mentoring opportunities with individuals working in their area(s) of interest.

Instruction in Self Advocacy

Examples on an individual basis may include opportunities for students to:

- conduct informational interviews;
- mentor with educational staff such as principals, nurses, teachers, or office staff; or
- mentor with individuals employed by or volunteering for employers, boards, associations, or organizations in integrated community settings; and
- participate in youth leadership activities offered in educational or community settings.

Using the Authorized Activities

States must determine whether all students in need of required activities have been provided the necessary services, prior to utilizing funds for authorized activities and pre-employment transition coordination activities.

Pre-Employment Transition Coordination

Pre-employment transition coordination activities (section 113(d) of the Act and §361.48(a)(4)) are:

- Attending IEP meetings, when invited;
- Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities;
- Working with schools to coordinate and ensure the provision of pre-employment transition services; and
- Attending person-centered planning meetings for students with disabilities receiving services under title XIX of the Social Security Act, when invited.

Roles and Responsibilities for VR and Education

- How to determine when services provided to students with disabilities is covered under pre-ETS or IDEA?

VR & Education

Questions to Consider:

- 1. The purpose of the service**
- 2. Customary Services**
- 3. Eligibility**



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IMPLEMENTATION OF SECTION 511 REQUIREMENTS

LIMITATIONS ON THE USE OF SUB MINIMUM WAGE

Section 511 Builds on Employment First

- Expecting, encouraging, providing, creating, and rewarding integrated employment in the workforce
- At minimum or competitive wages and benefits
- As the first and preferred outcome for working-age youth and adults with disabilities
- Especially those with complex and significant disabilities, for whom job placement in the past has been limited, or traditionally has not occurred.

Purpose of Section 511

- Ensures that individuals with disabilities have access to information and services that will enable them to achieve competitive integrated employment. (informed choice)
- Includes requirements for State VR agencies, subminimum wage employers and local and/or State educational agencies, including specific requirements for youth prior to their participation in subminimum wage employment.

What Section 511 Does:

- Places limitations on employers who hold special subminimum wage certificates
- Places specific conditions that must be met before employers can:
 - Hire youth with disabilities (under age 24) at subminimum wage
 - Continue to employ individuals with disabilities (of any age) at subminimum wage

Section 511 does not:

- Change the purpose of the Rehabilitation Act;
- Promote subminimum wage employment;
- Eliminate sheltered workshops; or
- Eliminate subminimum wage and section 14(c) of the FLSA

Education and contracting with entities employing individuals at Sub-Minimum wage

- Prohibits SEAs and LEAs from entering into contracts or agreements with community rehabilitation providers to transition youth into segregated programs
- Schools currently contracting with agencies holding subminimum wage certificates will no longer be able to continue to do so

Responsibilities of VR to Students known to be seeking SMW

- Documentation of the provision of:
 - Pre-Employment Transition Services (WIOA)
 - Transition Services (IDEA)
- Documentation of application for VR Services
 - Ineligibility determination
 - Eligibility determination
- Career Counseling and Information and Referral Services (CCIR)
 - Facilitates Informed Choice
 - Provided within 30 days of VR Eligibility/Ineligibility determination for students known to be seeking SMW employment

Responsibilities of VR to Youth known to be seeking SMW

- Documentation of the provision of:
Pre-Employment Transition Services (WIOA)
- Documentation of application for VR Services
Ineligibility determination
Eligibility determination
- Career Counseling and Information and Referral
Services (CCIR)
Facilitates Informed Choice
Provided within 30 days of VR of an Eligibility/Ineligibility
determination for students known to be seeking SMW
employment

Requirements Related to Youth with Disabilities

“Youth with a disability” is an individual aged 14 to 24 (section 7(42) of the Act and §361.5(c)(58)).

Some of these youth may satisfy the definition of a “student with a disability” (section 7(37) of the Act and §361.5(c)(51)).

- Before an “entity” may begin compensating a youth with a disability at subminimum wage, the youth must complete certain service-related activities and produce documentation showing completion

Requirements Related to Youth with Disabilities (cont)

Prior to beginning work at subminimum wage, a youth with a disability must demonstrate, through documentation, completion of the following

- Receipt, as applicable, of Pre-employment transition services under the VR program; or Transition services under IDEA;
- Application for VR services that results in determination of Ineligibility; or Eligibility.

Career Counseling, Information and Referral Services

- Designed to promote opportunities for competitive integrated employment to individuals w/disabilities, regardless of age, who are employed at subminimum wage
- Staff assistance with career goals, labor market exploration, and training information/opportunities in a one-on-one or group setting

Career Counseling, Information and Referral Services (cont)

- Information on an referral to other agencies/entities in the geographical area that provide relevant employment or employment support services
- Benefits Counseling (may be included)
 - Particularly with regard to the interplay between earned income and income-based financial, medical, and other benefits

For individuals starting employment at SMW on or after July 22, 2016

- CCIR must be carried out:
 - Once every 6 months for the first year
 - Annually thereafter for the duration of SMW employment
- Intervals are based upon the date the individual is 'known to VR' by:
 - The VR process
 - Self-referral
 - Referral by other agencies or public/private entities

For individuals already employed at SMW prior to July 22, 2016

CCIR must be carried out:

- Once every six months prior to July 22, 2017
- Annually thereafter

Definitions

“Employment Outcome” means:

- Competitive integrated employment; or
- Supported Employment.
- Adds a specific reference to ***customized employment*** as a form of competitive integrated employment

Competitive Integrated Employment

The definition of CIE must satisfy the requirements for all three components:

Competitive earnings;

Integrated Location; and

Opportunities for advancement.

This means that if an individual's employment fails to satisfy any one of the above components, the employment will not meet the definition of "competitive integrated employment.

Competitive Earnings

- Equal to or greater than the Federal, State, or local minimum wage rate, whichever is higher, where the place of employment is located; and
- Comparable to the customary rate paid by the employer to employees without disabilities in similar positions with comparable skills, experience, and training.

The employee with the disability also must receive benefits comparable to those of employees without disabilities in similar positions

Integrated Location Component

- in a setting typically found in the community; and
- in a setting in which the individual with the disability interacts while performing his or her job duties with employees without disabilities in the work unit and the entire employment site, and other persons (e.g., vendors and customers) without disabilities to the same extent that employees without disabilities in similar positions interact with these persons.

Integrated Location (cont.)

Group and enclave settings in which the interaction of the individuals with disabilities with persons without disabilities is with persons working or visiting the work site, rather than with co-workers, do not satisfy the integrated location component of the definition of “competitive integrated employment.”



Information and Resources

Section 511 portion of the WINTAC
Website

<http://www.wintac.org/topic-areas/implementation-of-requirements>



Pre-Employment Transition Services

Information and Resources on the
Pre-ETS portion of the WINTAC
Website

[WINTAC Pre-ETS](#)

Thank You

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