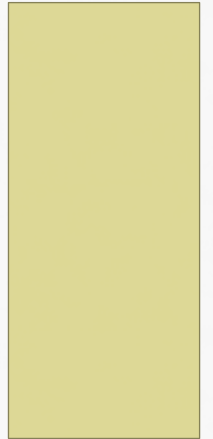


# PRE-EMPLOYMENT TRANSITION SKILLS AND WIOA

ENSURING FUTURE EMPLOYMENT  
FOR ALL STUDENTS WITH  
DISABILITIES

2017 Summer Transition Institute  
June 26, 2017



# WORKFORCE INNOVATION AND OPPORTUNITIES ACT (WIOA)

- Signed into law by President Obama July 22, 2014
- Reauthorizes the Workforce Investment Act of 1998, including the Rehabilitation Act
- Core Programs & collaboration
  - Title I: Workforce Development System
  - Title II: Wagner-Peyser labor exchange
  - Title III: Adult Education & literacy
  - Title IV- Vocational Rehabilitation
    - Section 504
    - Section 511

# ROLES AND RESPONSIBILITIES

Section 101(c) of WIOA makes clear that ....*"nothing in the Act is to be construed as reducing the responsibility of the local educational agencies or any other agencies under IDEA to provide or pay for any transition services that are also considered to be special education or related services necessary for providing a free appropriate public education to students with disabilities."*

# EDUCATION'S ROLE AND RESPONSIBILITIES

- Invite VR Counselors to participate in the IEP team
- Deliver the Transition Services included in the IEP
- Course of Study supports career and post-secondary education and training
- Provide opportunities to develop employment skills and participate in community experiences
- Provide available student information to assist VR in eligibility determination
- Assist VR Counselors to access the school environment and identify opportunities to work with students.

# DEFINITIONS

- Transition services
- Competitive Integrated Employment
- Student with a disability
- Youth with a disability
- Pre-Employment Transition Services (Pre-ETS)

# TRANSITION SERVICES

Rehabilitation Regulations define Transition services as:

A coordinated set of activities for a student or youth with a disability designed within an outcome oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

# COMPETITIVE INTEGRATED EMPLOYMENT

- Full or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work,
- Fully integrated with co-workers without disabilities,
- Opportunities for advancement are available similar to other employees without disabilities



# STUDENT WITH A DISABILITY

- Primarily ages 16 to 21 (21 years of age by July 1st)
  - In SD we can provide services for individuals as young as 14 years of age
- Includes attending Secondary, Post-secondary and other education programs.
- Includes students on a 504 plan
- VR needs to spend 15% of Federal award on Pre-ETS for students with disabilities
- SWD has requirements in Section 511



# YOUTH WITH A DISABILITY

An individual with a disability who:

- Is 14 years of age or older
- Is younger than 25 years old.
- Congress was very clear in the Reauthorization that youth with significant disabilities must be given every opportunity to receive the services necessary to ensure the maximum potential to achieve competitive integrated employment.

# DEFINITIONS FOR YOUTH AND STUDENT WITH A DISABILITY

- Youth with a Disability:

- 14-24 years of age

- Student with a Disability:

- Receiving Services through an IEP or 504
- Attending Post-Secondary training program and is <21 years of age.



# PRE-EMPLOYMENT TRANSITION SERVICES (PRE-ETS)

- **The 5 Pre-ETS as defined in §361.48**

(i) Job exploration counseling;

(ii) 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 in the community to the maximum extent possible;

(iii) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

(iv) Workplace readiness training to develop social skills and independent living; and

(v) Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

# PRE-ETS

- Pre-ETS must be provided in conjunction with local educational agencies
- 15% of VR allotment has to be used for Pre-ETS. This is approximately \$1.5 million for South Dakota
- We have to make available to all students with disabilities even students who traditionally have not been referred to VR
- Students/Guardians can refuse Pre-ETS DHS-VR 361 however they then cannot begin subminimum wage employment until age 25.
- Student does not need to be a VR client to receive Pre-ETS and VR funding of Pre-ETS

# SECTION 511 OF REHABILITATION ACT

## Three Guiding Rules of Section 511

1. **Students** with disabilities cannot work at subminimum wage.
2. **Youth** with disabilities cannot begin subminimum wage employment until certain requirements are met.
3. **People** with disabilities (not students and not youth who have not met the requirements) working in subminimum wage employment must have periodic reviews.

\*\*Section 511 Regulations and other Resources can be found at:  
<http://dhs.sd.gov/rehabservices/providerresources.aspx>

## Student

## Youth

## Adult

- Cannot do subminimum wage activities.
- Need to offer/provide Pre-Employment Transition Services. This must be documented.
- If subminimum wage may happen after completion of school then student must be referred to VR before completing school.

- Can work at subminimum wage.
- Must be referred to VR and case closed.
- Need to offer/provide Pre-Employment Transition Services. This must be documented.
- Would require initial and following reviews similar to adult.
- Employer must maintain documentation.

- Can work at subminimum wage.
- Would require initial review within 6 months, again before 12 months and then annually.
- Employer must maintain documentation.



## **RULE #1: STUDENTS WITH DISABILITIES CANNOT WORK FOR SUBMINIMUM WAGE.**

- Effective 7/22/2016.
- There is no grandfathering clause or exceptions.
- They can work for minimum wage in a sheltered employment but this would not meet Pre-ETS.
- Working for free is not a legal option as they would be out of compliance with the Student Unpaid Work Experience requirements.
- Some CSPs are setting up in-house trainings and some of these may not meet the Pre-ETS requirements.



## **STUDENTS WITH DISABILITIES PREPARING FOR SUBMINIMUM WAGE AFTER GRADUATION**

- DHS-VR-359 form completed to document Pre-ETS
- There is no requirement on how much Pre-ETS needs to be provided but other than addressing all 5 categories
- Pre-ETS can be denied but the individual would not be eligible for sub-minimum wage until after 25 years of age.

## **SECTION 511: LIMITATIONS ON USE OF SUBMINIMUM WAGE FOR YOUTH WITH DISABILITIES**

Youth cannot starting work in subminimum wage until the following conditions are met:

1. Has received pre-employment transition services;
2. Has been served or been determined ineligible by VR;
3. Has been provided career counseling and information/referrals to other public programs that allow the experience of competitive, integrated employment; and
4. VR Case is closed.

# DOCUMENTATION FOR PRE-ETS

DHS-VR-359 - 5/2017

## Documentation for Subminimum wage

Student/Youth Name: Click here to enter text.

School: Click here to enter text.

Subminimum Wage Agency: Click here to enter text.

Name of VR Counselor or Education Personnel Completing this Form: Click here to enter text.

Date form is completed: Click here to enter text.

Effective 7/22/2016, pre-employment transition services that were made available to a youth with disabilities must be documented before completion of school and/or before starting employment at less than minimum wage.

Complete the form below documenting the date, description of services and opportunity for each of the following activities.

- (i) **Job exploration counseling;**  
Click here to enter text.
- (ii) **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 in the community to the maximum extent possible;**  
Click here to enter text.
- (iii) **Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;**  
Click here to enter text.
- (iv) **Workplace readiness training to develop social skills and independent living; and**  
Click here to enter text.
- (v) **Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).**  
Click here to enter text.

How and when was the Vocational Rehabilitation Counselor contacted? Click here to enter text.

Date the Youth's Vocational Rehabilitation Services case was closed: Click here to enter text.

Outcome/Status of VR Services: Click here to enter text.

Date and method this document was provided to the Student/Youth or Guardian: Click here to enter text.

Signature of the VR Counselor or Education Personnel

Date

A copy of this form should be given to the student, guardian, school's file and the subminimum wage agency's file.

DHS-VR-361 - 5/2017

## Documentation for Refusal of VR Services and/or Pre-Employment Transition Services Subminimum wage

Student/Youth Name: Click here to enter text.

School: Click here to enter text.

Subminimum Wage Agency: Click here to enter text.

Name of VR Counselor or Education Personnel Completing this Form: Click here to enter text.

Date form is completed: Click here to enter text.

Effective 7/22/2016, pre-employment transition services that were made available to a youth with disabilities must be documented before completion of school and/or before starting employment at less than minimum wage. This form is used only in the event a student/youth or as applicable their parent or guardian refuses through informed choice to participate in applying for Vocational Rehabilitation Services or receiving pre-employment transition services.

Complete the form below documenting the date, description of services and opportunity for each of the following activities.

Description of the refusal services and the reason for refusal; Click here to enter text.

How and when was the Vocational Rehabilitation Counselor contacted? Click here to enter text.

Date the Youth's Vocational Rehabilitation Services case was closed: Click here to enter text.

Date and method this document was provided to the Student/Youth or Guardian: Click here to enter text.

Signature of the student/youth or their guardian

Date

Signature of the VR Counselor or Education Personnel

Date

A copy of this form should be given to the student, guardian, school's file and the subminimum wage agency's file.

Provider Resources Tab located at: [www.dhs.sd.gov/rehabservices](http://www.dhs.sd.gov/rehabservices)

# DOCUMENTATION OF PRE-ETS

- Employers who hold special wage certificates, commonly known as 14(c) certificates, under the FLSA (29 U.S.C. 214(c)). Must have a copy of the form in their files.
- Schools should maintain a copy in their files.
- Individuals who are working for subminimum wage need to meet for “reviews” to interview, assess, and provide counseling and guidance, information and referrals for resources to obtain community integrated employment.

# CASE STUDIES

- What areas of Pre-ETS would this student benefit from?
- Does Section 511 apply to this student's situation?
  - If it does, what documentation would need to be completed?
  - Who needs to have a copy of the documentation?

# RESOURCES

- <http://dhs.sd.gov/rehabservices/>
- [www.tslp.org](http://www.tslp.org)
- <http://www.transitionta.org/>
- [www.wintac.org](http://www.wintac.org)
- <http://www.ncwd-youth.info/>



# CONTACT INFORMATION

SD Rehabilitation Services  
3113 Spruce Street Suite 128  
Yankton, SD 57078

Phone: 605.668.3050

Toll Free: 1.800.265.9677

Email: [Jennifer.Trenhaile@state.sd.us](mailto:Jennifer.Trenhaile@state.sd.us)