

November 2017

Re: Process for Students and Youth with Disabilities Seeking Subminimum Wage Employment

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014. WIOA places a significant emphasis on services to students and youth with disabilities to ensure they have opportunities to receive the training and other services necessary to achieve competitive integrated employment. Among services, WIOA emphasizes pre-employment transition services, which include: workplace readiness training, work-based learning experiences, counseling regarding post-secondary enrollment opportunities, instruction in self-advocacy, and job exploration.

Effective July 22, 2016, Section 511 of WIOA placed limitations on the payment of subminimum wages by entities holding special wage certificates under Section 14(c) of the Fair Labor Standards Act. The intent of these limitations is that individuals with disabilities, especially youth with disabilities, must be afforded a full opportunity to prepare for, obtain, maintain, advance in, or reenter competitive integrated employment. WIOA includes specific requirements for youth ages 24 and under who plan to pursue subminimum wage employment.

One limitation of Section 511 is that an employer holding a 14 (c) certificate cannot hire a youth age 24 and under for subminimum wage employment unless the youth has received:

1. Transition services under the Individuals with Disabilities Education Act (IDEA) and/or pre-employment transition services under WIOA
2. Vocational Rehabilitation (VR) services, as follows:
 - a. The youth applied for VR services and was found ineligible OR
 - b. The youth applied for VR services and was found eligible AND
 - i. had an individualized plan for employment (IPE) AND
 - ii. worked toward an IPE employment outcome for a reasonable period without success AND;
 - iii. the VR case was closed, and
3. Career counseling, including information and referrals to federal and state programs and other resources in the employer's geographic area.

WIOA also advises that **documentation must be provided by the local education agency (LEA) to VR for students known to be seeking subminimum wage employment following exit from high school, and the information must be provided within specific timeframes.** As a result, Missouri Vocational Rehabilitation (MVR) and The Missouri Department of Elementary and Secondary Education's Office of Special Education, collaborated to develop a process to document the completion of transition services provided under IDEA by a student with a disability who is known to be seeking subminimum wage employment. The LEA is responsible for providing the following:

1. Documentation that the youth has completed transition services under IDEA;
 - a. Documentation must be provided in a manner that complies with confidentiality requirements (FERPA and IDEA);

- b. Documentation must be provided as soon as possible after completion of transition services, but no later than 30 calendar days after completion (60 calendar days in extenuating circumstances);
 - i. Documentation should be provided no earlier than 60 calendar days prior to graduation or exit from high school to allow a student a full opportunity to participate in transition and pre-employment transition services;
2. The LEA should keep a copy of the documentation provided to VR.

The Summative Transition Outcomes document and required Cover Sheet (both attached) may be used by the LEA to transmit the information required under WIOA. If the LEA prefers to develop another version of this document, please contact MVR for information regarding what specific information must be included in the document and cover sheet.

Prior to being hired in subminimum wage employment, the following must occur for youth ages 24 and under:

1. Apply for services from MVR.
2. Assist with obtaining documentation of disability and completion of transition and pre-employment transition services.
3. Participate in assessments if necessary to determine whether youth may benefit from competitive integrated employment.
4. Maintain documentation provided by MVR if youth is ineligible for services.
5. Provide a copy of the documentation to the 14c employer of their choice upon seeking subminimum wage employment.

Questions regarding WIOA requirements for youth under age 24 to access subminimum wage employment, should be referred to Kim Gee, director of transition and section 511 services, at kim.gee@vr.dese.mo.gov or 573-301-0589. Questions regarding IDEA compliance should be directed to Karen Allan, Director of Compliance, at karen.allan@dese.mo.gov or 573-751-0699.