



**WORKFORCE INNOVATION &
OPPORTUNITY ACT (WIOA)**

**“IMPACT ON SCHOOLS AND TRANSITION
PLANNING”**

WEBINAR HOSTED BY DESE

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Missouri Department of Elementary
and Secondary Education (DESE)

Welcome by Karen Allan

Thank you for taking time out to view this webinar entitled, Workforce Innovation and Opportunity Act in which the impact on schools and transition for postsecondary planning will be addressed. Presenters are Karen Allan, Director of Compliance, Office of Special Education, at the Department of Elementary and Secondary Education and Brenda Simmons, Director of Transition Services, Vocational Rehabilitation at the Department of Elementary and Secondary Education. The target audience is local education agencies, VR counselors who serve students with disabilities in the secondary school system, and parents and students in secondary schools. This webinar is approximately 30 minutes in length.

Handouts are available as additional resources and will be posted on our website along with the webinar.

The Office of Special Education would also like to take this opportunity to solicit questions. Please submit questions to karen.allan@dese.mo.gov with the subject line WIOA Q and A regarding this topic. Questions and answers will be compiled into a Q and A format which will be shared via follow up webinar in August 2016.

Webinar Objectives

■ Gain knowledge of:

■ **Workforce Innovation and Opportunity Act (WIOA)**

- Title IV, The Rehabilitation Act, Section 113 - Pre-employment Transition Services (effective 7-22-2014)
- Title V, Section 511 – Limitations on Use of Sub-minimum Wage (effective 7-22-2016)

■ **Impact of WIOA on Local Education Agencies (LEAs) and Transition Planning**

- Implications for students seeking extended employment
- Implications for IEP teams, transition planning, and post-secondary goal development for students seeking extended employment



This webinar will address two key transition-related provisions outlined in a new piece of legislation called The Workforce Innovation and Opportunity Act, or WIOA. Legislation outlined in both of these provisions encourages coordination, collaboration, and cooperation between Vocational Rehabilitation or VR, and local education agencies (LEAs) in order to fully implement the new transition-related requirements in the law.

The purpose of this webinar is to introduce two key provisions in WIOA: Section 113 – Pre-employment Transition Services, and Section 511 – which places limitations on the use of sub-minimum wage. Both of these provisions have significant implications for students and IEP teams when postsecondary employment in a sub-minimum wage setting is being considered.

The Workforce Innovation and Opportunity Act (WIOA)

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- ❑ WIOA was signed into law on July 22, 2014
<http://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>
- ❑ Reauthorized employment, training, adult education, and vocational rehabilitation programs (Title IV – Amendments to the Rehabilitation Act of 1973)
- ❑ Designed to help job seekers access employment, education, training, and support services to succeed in the labor market
- ❑ **Placed heightened emphasis on the provision of services to students and youth with disabilities to achieve competitive, integrated employment**



WIOA was signed into law on July 22, 2014. Most of the requirements in the new law went into affect immediately; however some, such as Section 511, which places limitations on the use of sub-minimum wage, do not go into effect until July 22, 2016. Final regulations are expected to be out in June, 2016, so we are still early in the process of interpreting all of the requirements set forth in WIOA. We will address what is known at this time to be required in the law. The final regulations may give us more specificity.

The Workforce Innovation and Opportunity Act (WIOA)-is designed to help job seekers access employment, education, training, and support services to succeed in the labor market; and to match employers with the skilled workers they need to compete in the global economy.

WIOA places heightened emphasis on the provision of services to students and youth with disabilities to ensure they have meaningful opportunities to receive the training and other services they need to achieve successful employment outcomes in competitive, integrated employment. This will be the focus of our webinar today.

WIOA – Title IV, Section 113

Pre-employment Transition Services

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- ❑ Expands the role of VR in transition, further aligning WIOA with the Individuals with Disabilities Education Act (IDEA).
- ❑ Vocational Rehabilitation (VR) will collaborate with local education agencies, to provide, or arrange for the provision of, **pre-employment transition services** for students with disabilities in need of such services who are *eligible or potentially eligible* for VR services.
- ❑ Students with disabilities desiring to work in an extended employment sheltered workshop setting after high school must provide documentation of the receipt of pre-employment transition services prior to entering employment for sub-minimum wages.
- ❑ Hook Center Pre-Employment Transition Service (Pre-ETS) Specialists can provide pre-employment transition services to *potentially eligible* students with disabilities.



The first provision in WIOA that we want to address is Section 113 of the Rehabilitation Act (which is Title IV of WIOA). Section 113 expands the role of VR in transition. It expands the population of students with disabilities who may receive Vocational Rehabilitation (VR) services because VR is now able to serve “potentially eligible” students. It also expands the services VR may provide. For example, VR can now provide pre-employment transition services.

The new law encourages schools to include pre-employment transition services outlined in Title IV of the Rehabilitation Act, ensuring a more comprehensive and coordinated framework for the provision of transition services.

Section 113-Pre-Employment Transition Services states that VR and local education agencies will collaborate to provide, or arrange for the provision of, pre-employment transition services for students with disabilities in need of such services who are eligible or potentially eligible for VR services.

In addition, youth with disabilities 24 years of age or younger who express an interest in an extended employment sheltered workshop after high school, must have documentation of the receipt of pre-employment transition services prior to entering employment for sub-minimum wages.

This is a big expansion of services for VR. Pre-employment transition services or Pre-ETS which it is often referred to, is designed to be an early start at job exploration for every

student with a disability that may need those services to obtain successful, competitive integrated employment.

Since this is such an important expansion of services for vocational rehabilitation, and VR staff capacity is limited, VR has contracted with the University of Missouri, Hook Center for Educational Renewal, to provide pre-employment transition services to students with disabilities in Missouri high schools who are potentially eligible for VR services. The Hook Center Pre-Employment Transition Specialist, or Pre-ETS Specialist is a resource for the provision of pre-employment transition services to any student with a disability, including those students desiring extended employment sheltered workshop.

WIOA – Title IV, Section 113
Pre-employment Transition Services (Pre-ETS)
Five Activities

Pre-employment transition services are provided for students with disabilities who are in need of such services and are:

- eligible or potentially eligible for VR services
- 16 – 21 years of age (or younger if determined appropriate by the IEP team)
- currently enrolled in secondary school

Five Pre-ETS activities are:

- ❑ 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 post-secondary educational programs at institutions of higher education;
- ❑ Workplace readiness training to develop social skills and independent living;
- ❑ Instruction in self-advocacy, which may include peer mentoring.

Pre-employment transition services are provided for students with disabilities who are in need of such services and are:

- eligible or potentially eligible for VR services
- 16 – 21 years of age (or younger if determined appropriate by the IEP team)
- currently enrolled in secondary school

There are five pre-employment transition service activities that the Vocational Rehabilitation Counselor or the Hook Center Pre-ETS Specialist may be able to provide to students with disabilities who are eligible or potentially eligible for VR services:

1. Job exploration counseling;
2. 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;
3. Counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs at institutions of higher education;
4. Workplace readiness training to develop social skills and independent living; and
5. Instruction in self-advocacy, which may include peer mentoring.

Pre-employment transition services should be done in collaboration with the LEA, and in coordination with other transition-related services outlined in the student's IEP.

WIOA – Title V, Section 511

Limitations on Use of Sub-Minimum Wage

- Effective July 22, 2016.
- Intent – 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.
- Key Provisions
 - Places limitations on employers who hold special wage certificates under the Fair Labor Standards Act (FLSA), especially when hiring youth 24 years of age or younger.
 - Eliminates subminimum wage options for students with disabilities.
 - Requires VR to provide students/youth with disabilities documentation demonstrating completion of certain requirements, prior to starting subminimum wage employment.
 - Prohibits a school district from entering into a contract or making other arrangements with a subminimum wage employer for an individual who is age 24 or younger which the work is compensated at a subminimum wage.

The second key provision is in Title V of WIOA that will have an impact on LEAs and transition planning. The new provision places restrictions on the use of sub-minimum wages.

Provisions in this section of the law go into effect on July 22, 2016. The intent of this new section in the law is to ensure individuals with disabilities, especially youth with disabilities, are afforded a full opportunity to prepare for, obtain, maintain, advance in, or reenter competitive integrated employment.

One of the key provisions in Section 511 places limitations on employers who hold special (subminimum) wage certificates under the Fair Labor Standards Act (FLSA), especially when hiring youth 24 years of age or younger. Employers who hold special wage certificates under the Fair Labor Standards Act (FLSA) cannot hire youth with disabilities (24 & under) at a sub-minimum wage level, unless the youth are first afforded meaningful opportunities to access competitive, integrated employment in the community through pre-employment transition services under WIOA and transition services under IDEA.

Another provision eliminates subminimum wage employment as an option for students with disabilities. **Therefore, we interpret this to mean, the student can no longer participate in any subminimum wage employment as long as the individual is considered a student enrolled in secondary education.**

Section 511 also designates Vocational Rehabilitation as the agency or entity that is now

required to provide students with disabilities documentation (before they graduate or exit high school) demonstrating completion of certain activities, prior to starting sub-minimum employment. These required activities include not only pre-employment transition services provided under Section 113, but also completion of transition activities by the LEA under IDEA.

Just to clarify, VR evaluates the student's ability to benefit from competitive, integrated employment; and will provide required documentation, if appropriate to students seeking employment in subminimum settings. However, VR does NOT determine eligibility for subminimum; and VR does not certify individuals for extended employment sheltered workshop. It is The Office of Special Education, Sheltered Workshops that completes the certification process for subminimum wage employment.

Finally, another provision states in Section 511 that LEAs are prohibited from entering into a contract or making other arrangements with a subminimum wage employer for an individual who is age 24 or younger for which the work is compensated at a sub-minimum wage.

Lets take a closer look at this last provision and how it will impact local education agencies and students seeking extended employment in a sheltered workshop after high school.

Section 511

Prohibits Work Experience for Subminimum Wage

- Section 511 states that a school district *may not* enter into a contract or make other arrangements with a subminimum wage employer for an individual who is age 24 or younger which the work is compensated at a subminimum wage.
- This is interpreted to mean as long as the individual is a student of a school district, the student cannot be involved in any subminimum wage employment, to include:
 - Work in extended employment at a sheltered workshop
 - Participation in work experiences where they would be paid subminimum wages
 - Participation in work experiences that are not in an integrated, competitive setting.

We mentioned earlier that under Section 511 a school district may not enter into a contract or make other arrangements with an subminimum wage employer for an individual who is age 24 or younger which the work is compensated at a subminimum wage.

Again, this is interpreted to mean as long as the individual is a student of a school district, the student cannot be involved in any subminimum employment, to include:

- Work in extended employment at a sheltered workshop
- Participation in work experiences where they would get paid subminimum wages
- Participation in work experiences that are not in an integrated, competitive setting.

Implications for Postsecondary Transition Planning

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- The IEP must continue to include a statement of appropriate, measurable post-secondary goals based on transition assessment and a description of the transition services that will reasonably enable the student to meet the postsecondary goals.
- Instead of students participating in subminimum wage work experiences, transition services will now include pre-employment transition services in the areas of job exploration, work-based learning experiences either on or off campus in a competitive integrated setting, counseling for enrollment in post-secondary education, workplace readiness, and instruction in self-advocacy.
- WIOA restricts participation in subminimum wage employment for a student still in school, but it does not unnecessarily restrict the ability of the IEP team to appropriately identify goals that might be more conducive to those in sub-minimum wage employment programs.



What are the implications of all of this for schools and IEP teams, in terms of transition planning for students who may be seeking extended employment in a sheltered workshop setting upon high school graduation or high school exit?

The IEP must continue to include a statement of appropriate, measurable post-secondary goals based on transition assessment and a description of the transition services that will reasonably enable the student to meet the postsecondary goals.

- IDEA requires that the IEP must include appropriate, measurable post-secondary goals for the student based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills. It must also include a description of the transition services that will reasonably enable the student to meet the postsecondary goals. Therefore, schools should continue to conduct any needed comprehensive evaluation and transition assessments. In order to help students make informed choices, students should undergo a career assessment that includes, but is not limited to, interest inventories, and formal and informal vocational assessments.
- Instead of students participating in subminimum wage work experiences, transition services will now include pre-employment transition services in the areas of job exploration, work-based learning experiences on or off campus, counseling for enrollment in post-secondary education, workplace readiness, and instruction in self-advocacy.

- WIOA restricts participation in subminimum wage employment for a student still in school, but it does not unnecessarily restrict the ability of the IEP team to appropriately identify goals that might be more conducive to those in sub-minimum wage employment programs.

Implications for Students

- VR will continue to work cooperatively with schools, as they always have, to determine if a student can benefit from competitive, integrated employment.
- The VR counselor should be invited to the IEP meeting anytime there is a possibility the student may need VR services. Generally speaking, this occurs during the last two years of the student's high school experience.
- The VR Counselor or the Hook Center Pre-ETS Specialists will ensure students with disabilities have every opportunity to maximize receipt of pre-employment transition services for as long as they need those services, prior to graduation or high school exit.
- "Pre-employment transition services" under WIOA are not intended to supplant IEP transition services but rather to supplement them; and WIOA does not unnecessarily restrict IEP team decision-making or the identification of post-secondary goals.
- The student can no longer participate in any subminimum wage employment as long as the individual is considered a student enrolled in secondary education.



What are the implications for students? First of all, the intent of Section 511 is that individuals with disabilities, especially youth with disabilities (youth age 24 or younger), must be afforded a full opportunity to prepare for, obtain, maintain, advance in, or reenter competitive integrated employment. Therefore, VR will continue to work cooperatively with schools, as they always have, to determine if a student can benefit from competitive, integrated employment.

Second, we continue to encourage VR participation in the student's IEP meeting. The VR counselor who has been assigned to work with the LEA should be invited to the IEP meeting anytime there is a possibility the student may need VR services. Generally speaking, this occurs during the last two years of the student's high school experience. The LEA should ensure written consent from parent/guardian has been obtained so VR can be invited to the IEP meeting, if appropriate. The VR counselor covers multiple schools over a wide geographical area, so advanced notice of the IEP meeting will assist VR in being able to attend. There may be instances when the VR counselor may have to participate by phone, video, or make alternate arrangements; good communication between the VR counselor and the case manager coordinating the IEP meeting is crucial.

Third, the VR Counselor or the Hook Center Pre-ETS Specialists will provide pre-employment transition services to students who need those services to reach a competitive, integrated employment outcome. Any student with a disability, including students seeking subminimum wage employment, should have every opportunity to maximize receipt of pre-employment transition services provided by the Hook Center Pre-

ETS specialist or the VR counselor prior to graduation or high school exit.

There may be some instances when a VR case may not need to be opened until the student is close to graduation or exit from high school. The student should already have had the full opportunity to benefit from a wide range of pre-employment transition services, provided either by the Hook Center Pre-ETS specialist or the VR counselor, because those services can now be provided before a case is opened.

Utilize the Hook Center Pre-ETS Specialists to provide pre-employment transition services to students with disabilities who are potentially eligible for VR services. This includes those students who desire extended employment sheltered workshop, but are still a few years away from graduation/exit from high school. Once a student is eligible for VR services and a case is opened, the Hook Center Pre-ETS Specialist will generally not continue to provide any pre-employment transition services. The VR Counselor will provide pre-employment transition services after a VR case has been opened.

Fourth, “Pre-employment transition services” under WIOA are not intended to supplant IDEA transition services but rather supplement them, and WIOA does not unnecessarily restrict IEP team decision-making or the identification of post-secondary goals. Students will continue to receive transition services as identified by the IEP team.

Finally, as we stated earlier, one of the major implications for students is that the student can no longer participate in any subminimum wage employment as long as the individual is considered a student enrolled in secondary education.

VR Documentation for *Students Seeking Extended Employment*

- Once it has been determined by VR the student cannot benefit from services leading to competitive integrated employment in the community, the following will be provided to the student before they leave the school setting:
 - Documentation of the completion of appropriate pre-employment transition services under Section 113 of WIOA ; and
 - Documentation from appropriate school personnel responsible for the provision of transition services to the VR counselor of the receipt of transition services under IDEA; and
 - Documentation of the application for VR services, with the result that the student was either determined ineligible for VR services; OR determined eligible and had an approved individualized plan for employment, but was unable to achieve the employment outcome, and their VR case was closed.
 - Documentation of receipt of career counseling, and information and referral to other federal state programs

Once it has been determined the student cannot benefit from VR services leading to competitive integrated employment in the community, the following will be provided before the student leaves the high school setting:

- Documentation from VR of the completion of appropriate pre-employment transition services under Section 113 of WIOA ; and
- Documentation from appropriate school personnel responsible for the provision of transition services to the VR counselor of the receipt of transition services under IDEA;
 - schools will need to provide documentation of IDEA transition services to the VR counselor when they open a case on the student. This documentation may include a copy of the IEP, progress reports from on or off campus work experience programs, etc.
- Documentation of application for VR services, with the result that the student was either determined ineligible for VR services; OR determined eligible and had an approved individualized plan for employment, but was unable to achieve the employment outcome, and their VR case was closed.
- VR will also provide the student career counseling, information and referral to Federal

and State programs and other resources in their geographic area that offer employment related services and supports designed to enable the individual to explore, discover, experience and obtain competitive, integrated employment.

Q and A

Initial Questions

Question: Can students who have already been certified for subminimum wage, or who have already been participating in work experience programs in a sheltered workshop continue in these programs for the 2016-17 school year?

Answer: No. One of the key provisions in Section 511 (b)(2) states that the LEA can no longer contract or enter into an arrangement with an employer that holds a special subminimum wage certificate for which work is compensated at a subminimum wage.

Students still enrolled in high school, even students who may have already been certified and worked in an extended employment/sheltered workshop, will no longer be able to participate in a work experience for subminimum wages.

Students must, instead, be provided work experience on or off campus in a competitive, integrated setting as part of transition services through the IEP.



This concludes the content portion of our presentation on WIOA. We have had some initial questions that have been submitted to us that we would like to address at this time.

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Q and A

Initial Questions

Question: Can students participate in work experience in an extended employment sheltered workshop if they are paid minimum wage?

Answer: No. Work experiences need to be provided in a competitive, integrated setting, and facility-based experiences generally do not meet the definition of an integrated setting, even if the student was paid minimum wage or higher.



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Q and A

Initial Questions

Question: Do students who are planning to enter a day habilitation program after high school have to have competitive work experience and a case opened with VR?

Answer: No, if the student is not seeking subminimum wage employment there is not a requirement that they have competitive work experience and be referred to VR. Any student may receive Pre-ETS.



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Q and A

Initial Questions

Question: If the student has received all of the required documentation from VR stating they cannot benefit from competitive integrated employment, can the student submit an application to a local sheltered workshop for postsecondary employment?

Answer: Yes. Once VR has provided the required documentation to the student they may apply for postsecondary employment in a local extended employment sheltered workshop setting.



Again, we will continue to provide additional information as we receive the final regulations. Remember, we would like for you to submit your questions to karen.allan@dese.mo.gov with the subject line WIOA Q and A.

Resources/Handouts

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- Workforce Innovation and Opportunity Act (WIOA):
<http://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html>.
- “Quick Guide: Preparing Students for Competitive Integrated Employment” developed by the National Technical Assistance Center on Transition (NTACT).
- Hook Center Pre-ETS Specialist Regional Contact List will be posted by August 1, 2016
- “Pre-employment Transition Services” - Missouri Vocational Rehabilitation.
- “Unpaid Work Experiences, Volunteering, and Internships: What’s Allowed”, updated November, 2015, developed by the State Employment Leadership Network.
- Workforce Innovation Technical Assistance Center (WINTAC): Pre-Employment Transition Services
<http://www.wintac.org/topic-areas/pre-employment-transition-services>



Thank you for listening to this webinar. The Office of Special Education and Office of Adult Learning and Rehabilitation Services – Vocational Rehabilitation will continue to provide updates as more information becomes available.

These resources will be posted with the webinar on the Department of Elementary and Secondary Education, Office of Special Education, Compliance webpage under Quick Links.

Contact

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For more information contact:
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