



**WORKFORCE INNOVATION &
OPPORTUNITY ACT (WIOA)
LIVE Q AND A**

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

WEBINAR HOSTED BY DESE

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Missouri Department of Elementary
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Webinar Objectives

- To provide guidance regarding the implementation of the Workforce Innovation and Opportunity Act (WIOA) for Local Education Agencies (LEAs) responsible for postsecondary transition planning with students.



Question and Answer #1

1. Question - Are Missouri Extended Employment Sheltered Workshops Closing?

Answer - Section 511 of Workforce Innovation and Opportunity Act (WIOA) does not eliminate sheltered workshops and it does not eliminate subminimum wage under section 14(c) of the Fair Labor Standards Act (FLSA).



Question and Answer #2

2. Question - Will I have to wait until I am 25 to become employed in a workshop?

Answer - WIOA does not take away the individual's choice of subminimum wage employment in a workshop. Before a workshop may employ a youth with disability age 14-24 at subminimum wage, the youth must complete certain service-related activities and produce documentation showing completion of those activities.

If a youth completes the required activities and receives documentation from Vocational Rehabilitation (VR) that they are ineligible or unable to achieve an employment outcome after a reasonable period of time, the youth may apply for subminimum wage employment, even if they are under the age of 25.

If a youth with a disability or the youth's parent or guardian, refuses, through informed choice, to participate in the required activities, the individual will not be able to apply for work at subminimum wage in a workshop until after they reach the age of 25.



Question and Answer #3

3. Question - We have students in a work study program working in the high school cafeteria. They get paid \$2/hour, get high school credit and a free lunch. Can the school continue to pay students in this type of on-campus program at sub-minimum wage?

Answer - The school should either pay minimum wage or set it up as an unpaid work experience, in accordance with Department of Labor (DOL) guidelines.



Question and Answer #4

4. Question - Can we continue our off campus unpaid work-experience program with businesses in the community to allow students to try different jobs (for various lengths of time) over the course of the year to get general training as part of our vocational skills training classes?

Answer - Per the DOL these types of unpaid work experiences for individuals with disabilities are permitted for a short period of time at a business, when the purpose of the work experience is for job exploration, assessment, or training, as long as certain criteria are met.

Local Education Agencies (LEAs) are encouraged to review the guidance outlined in the State Employment Leadership Network (SELN) document (posted as a webinar resource on the Office of Special Education website) entitled "Unpaid Work Experiences, Volunteering, and Internships: What's Allowed" for a complete listing of all the criteria that must be met when developing on or off campus unpaid work study or work experience programs for students with disabilities.



Question and Answer #5

5. Question - What if work experience is in a voluntary work setting only, such as an animal shelter, Habitat for Humanity, etc.?

Answer - Students can work as a volunteer, as long as certain criteria are met. Individuals may volunteer only at non-profit organizations.

Volunteering is not permitted at for-profit, private-sector businesses. Per the DOL, individuals may volunteer or donate their services for “public service, religious or humanitarian objectives” without expectation or receipt of payment.

An individual with a disability must be legally competent to freely volunteer his or her services. Per the DOL, individuals under 18, and those over 18 who are not their own legal guardian, cannot volunteer without the consent of their parent or legal guardian. For more detailed information on volunteering, refer to the SELN document referenced in Question #4 of this Q and A PowerPoint.



Question and Answer #6

6. Question - Is the documentation of Pre-Employment Transition Services (Pre-ETS) 1 or 2 experiences, and how does a VR counselor document these services?

Answer - There is no requirement in the law or the regulations that specify the number of work based learning experiences that should be provided under pre-employment transition services.

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 Individualized Education Program (IEP).

Some of the documentation of pre-employment transition services may be provided by the Hook Center, the school district, and/or vocational rehabilitation, depending on who is providing the service. These services and activities may be documented in the school’s student work experience progress reports, or through documentation of student work-based learning experiences done by the Hook Center Pre-ETS Specialist or the VR Counselor.



Question and Answer #7

7. Question - One of the slides in the previous webinar said 24 years of age and younger was the targeted age, but school age ends at 21 and that seems contradictory. Can you please clarify the age range?

Answer – WIOA targets specific age groups for different services. For example, pre-employment transition services are intended for students with disabilities, while documentation requirements for sub-minimum wage targets youth with disabilities.

- ❑ *The age range for a student with a disability is 16-21 years of age.*
- ❑ *The age range for a youth with a disability is not younger than 14 years of age and not older than 24 years of age.*



Question and Answer #8

8. Question - Do pre-employment transition services for “potentially eligible” students apply only to children with disabilities under IDEA who have an IEP, or could they meet 504 requirements?

Answer - Pre-employment transition services are applicable to students who are eligible for and receiving special education or related services under IDEA; or students with a disability for the purposes of Section 504. A couple points of clarification:

- ❑ *The student does not actually have to be receiving 504 services, or be on a 504 plan; just eligible for 504 services.*
- ❑ *In reference to pre-employment transition services, the term “potentially eligible” is referring to eligibility for VR services, not IDEA.*



Question and Answer #9

9. Question - Can a student who already has an open case with VR and has already been certified by DESE, choose to go to the sheltered workshop after they have completed a D&E (discovery and exploration) through a Community Rehabilitation Program (CRP), if they have not yet started working at the workshop?

Answer – Because a state or local education agency is prohibited under Section 511 of WIOA from contracting with a shelter workshop for subminimum wage the student cannot begin employment before exit from school.



Question and Answer #10

10. Question - If a student participates in a summer work experience through VR as a junior, and the CRP does not recommend competitive employment, can they go to the sheltered workshop their senior year?

Answer -Because a state or local education agency is prohibited from contracting with a shelter workshop for subminimum wage the student cannot begin employment before exit from school. The student needs to have received pre-employment services for as long as possible or have completed all of their transition services in the IEP. Therefore, the student has not completed the process to receive documentation from VR that would allow certification to work at the workshop.



Question and Answer #11

11. Question - What are the minimum requirements to meet pre-employment transition services in high school, and how is this documented?

Answer - There are no minimum requirements for pre-employment transition services. Pre-employment transition services are available statewide to all individuals who meet the definition of a "student with a disability" in need of such services, regardless of whether a student has applied for VR services; and may begin once a student requests or is recommended for one or more pre-employment transition services. 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.

VR and/or the Hook Center Pre-ETS Specialists in partnership with the LEAs will maintain appropriate documentation of those individual students who have received pre-employment transition services. Any documentation provided by the LEA to VR must comply with the confidentiality requirements of the Family Education Rights and Privacy Act (FERPA), and they must retain copies of the documentation in a manner consistent with the requirements of 2 CFR 200.333.



Question and Answer #12

12. Question - Who monitors VR to ensure they have provided the "required documentation"?

Answer - At the federal level, the Rehabilitation Services Administration (RSA) monitors state VR agencies for compliance with the law and implementing regulations. In Missouri, the state VR agency has a Quality Assurance Section that reviews and monitors counselor's individual casework and office practices to ensure quality services are provided to individuals with disabilities.



Question and Answer #13

13. Question - What are examples of “certain requirements” the youth must complete before working in a sheltered workshop?

Answer - The documented service-related activities the youth must complete include:

- ❑ receipt of pre-employment transition services provided by either the VR counselor or the Hook Center Pre-ETS Specialist; or completion of transition services provided by the LEA under IDEA; and
- ❑ application for VR services that result in the determination of either ineligibility, or
- ❑ eligibility, and if determined eligible for the VR program, he or she must have had an approved Individualized Plan for Employment (IPE), but was unable to achieve a successful employment outcome, and the VR case was closed; and
- ❑ receipt of career counseling, and information and referral services.



Question and Answer #14

14. Question - Who should parents/guardians contact if the individual is 24 or younger, wants to work in a sheltered workshop, and they have already graduated/exited high school?

Answer - Parents/Guardians may contact:

- ❑ the local sheltered workshop, or
- ❑ the local VR office, or
- ❑ smwage@vr.dese.mo.gov (this email site is monitored daily)



Question and Answer #15

15. Question - If a student currently in their final year of high school is seeking subminimum wage employment at a sheltered workshop after they exit high school, who do they contact and when?

Answer – The VR counselor who serves your school is the primary point of contact for students seeking subminimum wage employment.

Prior to opening a case on a student who is seeking subminimum wage employment, the VR counselor will work with the Hook Center Pre-ETS Specialist to ensure the student has received pre-employment transition services to the maximum extent possible, and discuss the student’s completion of transition services in the IEP.



Question and Answer #16

16. Question - Can a sheltered workshop continue to employ a student at subminimum wage if they were employed prior to July 22, 2016, are 17 years of age, home-schooled, and not currently receiving any services from the LEA?

Answer - If a student is home-schooled, it is our understanding the student is eligible to remain employed at a subminimum wage in the workshop. As a subminimum wage employee, the individual must receive career counseling and information and referral services annually.



Question and Answer #17

17. Question - Should work-based learning experiences occur in competitive, integrated settings only?

Answer - Opportunities for work-based learning experiences in competitive integrated employment settings should be exhausted before considering provision of these services in non-integrated work settings.



Question and Answer #18

18. Question - What documentation do school districts need to provide to VR about transition services for students seeking sheltered employment?

Answer - School districts will need to provide VR documentation of the disability (Evaluation Report), the Individualized Education Program (IEP) and documentation of the results of transition services addressed in Form C of the IEP.

Missouri VR and the Office of Special Education are working together to identify a streamlined approach for transmittal of this documentation that is consistent with FERPA and/or IDEA, and will expedite continued service delivery in meeting the needs of the student. Once identified, this process will be shared with districts.



Question and Answer #19

19. Question - WIOA 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. How does this look? Would this refer to social skills and behavioral goals?

Answer - Goals for postsecondary should not be written to seek employment in a setting that pays subminimum wage. Postsecondary goals for employment should be worded in such a way that the focus is on the skills that the student has a strength. For instance, Johnny will be employed in a work setting where he can use his skills for sorting, categorizing and packaging items. The behavioral and social skills goals may be annual goals for demonstrating interpersonal skills in the work environment such as requesting help without interrupting others, cooperating with workplace peers to complete a product on an assembly line, complete work on time etc., to support the postsecondary goal for employment.



Question and Answer #20

20. Question - During file review, if there is a post-secondary goal for sheltered workshop prior to a VR assessment being completed will the district be found out of compliance?

Answer – DESE is not monitoring for compliance with WIOA. However, as outlined in Q and A #19, we encourage you to think of postsecondary goals as follows:

- *Postsecondary goals for employment should be worded in such a way that the focus is on skills that are strengths for the student. For instance, Johnny will be employed in a work setting where he can use his skills for sorting, categorizing and packaging items.*



Question and Answer #21

21. Question - Schools have been able to count sheltered workshop as a positive placement in the “non-competitive” category. Do you anticipate the OSEP Indicator 14 special education definitions for positive placement changing in light of WIOA?

Answer – At this time we encourage schools to continue following current DESE guidance regarding positive placement definitions.

Karen is confirming with Mary Corey who collects data to see if it will affect Indicator 14!



Question and Answer #22

22. Question - We typically compare our outcome results to the post-secondary goals written in the IEP to determine how effective our teachers are at developing appropriate post-secondary goals. Should a student’s post-secondary goal be changed from competitive to sheltered workshop prior to graduation if the VR assessment is completed, it is determined that the student will not benefit from VR services and the student/family will pursue certification for workshop after graduation?

Answer – Again, we suggest wording the postsecondary goals in such a way that the focus is on skills that are strengths for the student. For instance, Johnny will be employed in a work setting where he can use his skills for sorting, categorizing and packaging items. It isn’t necessary to specify in a postsecondary goal whether they are in a segregated or integrated work environment.



WIOA Final Rules

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On August 19, 2016, the U.S. Departments of Labor and Education announced the publication of the **final rules** to implement the *Workforce Innovation and Opportunity Act (WIOA)* (Pub. L. 113-128) in the *Federal Register*.

<https://federalregister.gov/a/2016-16046>



Contact

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For more information about compliance requirements or work experience options for students receiving special education contact:

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