

The Workforce Innovation & Opportunity Act (WIOA) Pre-employment Transition Services & Section 511

Opportunities for Collaboration
Hershey, PA
March 10, 2017

Pre-employment Transition Services (Pre-ETS)

- A State must reserve at least 15% of their Federal Award for pre-employment transition services (Section 110(d), and Section 113(a), §361.48(a)). When there are two State VR agencies, the reservation and expenditure of funds is a State matter that must be coordinated between the two agencies and resolved at the State level.
- 15% reserve may only be spent on pre-employment transition services (five “required”, nine additional “authorized” activities, and four “coordination” activities) for students with disabilities who are eligible or potentially eligible for VR services.
 - The “**five required**” activities under pre-employment transition services **must be** provided to students with disabilities. [Section 113(b) of the Act and §361.48(a)(2) and implementing regulations]
 - The “**nine authorized**” activities - **may be** provided if reserved funds remain after all required services have been made available to all students with disabilities who need them. [Section 113(c) of the Act and §361.48(a)(3) and implementing regulations]
 - The “**four pre-employment transition coordination**” activities - **must** be carried out, and reserve funds **may be** used to pay for pre-employment transition coordination activities. [Section 113(d) of the Act and §361.48(a)(3) and implementing regulations]

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).

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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.

(section 7(37) of the Act and §361.5(c)(51))

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.

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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.”

(section 7(42) of the Act and §361.5(c)(58))

Pre-employment Transition Services (Pre-ETS)



Pre-employment transition services are an early start at job exploration that:

- Must be made available statewide to all students with disabilities who need them, 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 the disability is provided to the VR agency;
- Assist students with identifying career interests to be further explored through additional VR services, including transition services;
- 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).

Pre-employment Transition Services (Pre-ETS): Required Activities



The five “required” pre-employment transition services activities which can be provided in group setting or individually, are:

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;
5. Instruction in self-advocacy, which may include peer mentoring.

Potentially Eligible Students with Disabilities

- “Potentially Eligible” defined in 34CFR361.48(a) means all students with disabilities who satisfy the definition in 34CFR361.5(c)(51), regardless of whether they have applied, and been determined eligible, for the VR program.
- A student with a disability is an individual who is in a secondary, post-secondary, or other recognized education program; and
 - Meets certain age requirements (varies from state to state); 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.

Pre-employment Transition Services (Pre-ETS): Age Requirements

- A state may elect a lower age for the provision of pre-employment transition services - must be a State -not an agency- decision.
- If the State does not elect to provide pre-employment transition services at an earlier age, the IDEA minimum age range for the receipt of transition services would apply.

Pre-employment Transition Services (Pre-ETS): Educational Setting



- 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.

Pre-employment Transition Services (Pre-ETS) Educational Setting



Educational programming under the definition of a "student with a disability," would include programs that provide a recognized credential of education, such as a certified nursing assistant (CNA) program. However, programs provided by a Community Rehabilitation Provider, would not be considered an educational program for the purposes of satisfying "educational programming" within the definition of a student with a disability.

Pre-employment Transition Services (Pre-ETS) Documentation of Disability



Documentation of the disability may be provided:

- via counselor case note documenting counselor observation, review of school records, statements of education staff; or
- referral form for pre-employment transition services with the identification of a student's disability, signed by school staff and parent/guardian if the student is under the age of majority in a State (parental consent to participate in pre-employment transition services is governed by State law, as well as policies of the educational programs and the DSU); or
- copy of an individualized education program (IEP) document, SSA beneficiary award letter, school psychological assessment, documentation of a diagnosis or disability determination or documentation relating to 504 accommodation(s).

Job Exploration Counseling - Examples



Group

- 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.

Individual

- Job exploration counseling provided on an individual basis might be provided in school or the community and could include discussions pertinent to the particular 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 - Examples



Group

- 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.

Individual

- Work-based learning experiences on an individual basis could include paid or unpaid:
- Internships;
- Apprenticeships; (except for pre-apprenticeships and registered apprenticeships)
- Short-term employment;
- Fellowships; or
- On-the-job trainings located in the community.

Counseling for Post-Secondary Ed Programs Examples



Group

- 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

Individual

- 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 that may be used to support individual student success in education and training (i.e., disability support services)

Workplace Readiness Training - Examples

Group

- Offered in a generalized manner in a classroom or other such group settings to provide programming to assist students with disabilities to develop social skills and independent living skills necessary to prepare for eventual employment. These services could teach skills 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

Individual

- All of the services discussed to the left that may be provided in a group setting, may also 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

Group

- Generalized classroom lessons in which students:
- 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

Individual

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

Pre-employment Transition Services (Pre-ETS): Four Coordinated Activities

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.

Pre-employment Transition Services (Pre-ETS) Nine Additional Authorized Activities

If funds remain after all necessary “required” activities have been made available, VR may provide additional “authorized” activities that:

- Improve the transition of students with disabilities from school to postsecondary education or an employment outcome; and
- Support the arrangement or provision of the “required” activities.

“Authorized” activities (section 113(c) of the Act and §361.48(a)(3)) include, but are not limited to (there are nine authorized activities):

- Providing instruction to VR counselors, school transition personnel, and other persons supporting students with disabilities;
- Disseminating information about innovative, effective, and efficient approaches to achieve the goals of pre-employment transition services; and
- Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of pre-employment transition services.

Collecting required data elements

- Referral Forms
- Consent and Release of information
- Documentation from referral and other sources

Allowable Costs

- Funds reserved in accordance with section 110(d) of the Act must be used solely to pay for those costs incurred in the provision of pre-employment transition services (section 113 of the Act and §361.48(a) of the VR regulations).
- VR agencies must analyze each cost to determine whether it:
 - Fits within the scope of the pre-employment transition services activities described in section 113 of the Act and §361.48(a); and
 - Was incurred solely for the benefit of a “student with a disability.”

Allowable Costs (contin.)

- Some, but not all, expenditures incurred in providing transition services prior to the enactment of WIOA may be permissible as expenditures for pre-employment transition services.
- If a student needs a service that goes beyond the scope of pre-employment transition services, and such additional service is listed on the student's approved IPE, the VR agency must pay for those costs with non-reserved VR funds.

Examples of costs associated with Work-Based Learning Experiences that may be Allowable

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

Examples of Potentially Allowable Costs for Work-Based Learning Experiences (contin.)



Competitive Wages or Stipends:

- If work-based learning experiences are paid, students with disabilities must be paid competitive wages to the same extent competitive wages are paid to students without disabilities in similar experiences.
- Training stipends are permissible for students with disabilities participating in unpaid work-based learning experiences commensurate with and to the same extent that they are provided to students without disabilities participating in these experiences.
- Discussion of the payment of wages and stipends for students participating in work-based learning experiences, is found in the preamble to the final VR regulations at 81FR 55629, 55694 (August 19, 2016).

Auxiliary Aides and Services



Auxiliary Aids and Services for Students with Disabilities in the Provision of Transition Services

- Auxiliary aids and services needed by a student with a disability to access or participate in pre-employment transition services would constitute allowable pre-employment transition services expenditures, and, therefore, may be paid with the funds reserved for that purpose.
- Auxiliary aids and services ensure equal access to information, materials, services, and activities available to students with disabilities participating in pre-employment transition services.
- The ADA's title II implementing regulations define "auxiliary aids and services in 28 CFR 35.104 (a complete listing is in the 12.28.16 memo).
- Examples include screen reading software programs to enable an individual who is blind to access information on a computer during a work-based learning experience.

Formal Interagency Agreement: VR and Education



- State VR agencies have been required to enter into formal agreements with State educational agencies (SEAs) since the 1997 final regulations implementing the 1992 amendments to the Rehabilitation Act of 1973.
- The agreements were focused on coordination of VR services with special education services to make a seamless transition from educational services to VR services.



Formal Interagency Agreement

- To facilitate and coordinate the smooth transition of students with disabilities from school to post-school activities, including the receipt of pre-employment transition services, transition services and other VR services.
- To serve as a mechanism for VR agencies, State educational agencies (SEA) and, as appropriate, local educational agencies (LEA) to clearly specify the **plans, policies and procedures for coordinating services to facilitate the transition of students.**

Background

- VR agencies and SEAs had difficulty determining which program should pay for similar services either program could provide, resulting in:
 - ❖ Agreements that did not address financial responsibility; and/or
 - ❖ delay of services to students with disabilities.

Purpose of Interagency Agreements

- To coordinate services and facilitate the seamless transition of students with disabilities from educational services to VR services and:
 - Clarify partner roles, responsibilities and processes used to provide transition services to students with disabilities;
 - Avoid duplication of services; and
 - Capture comparable services and benefits.

Coordination between VR and Education

Financial Responsibilities of VR Agencies and LEAs

- LEAs are responsible for providing and paying for any transition service that is considered special education or related services necessary for ensuring a free appropriate public education (FAPE) as required under IDEA.
- Nothing under title I of the Rehabilitation Act shall be construed as reducing a LEA's obligation to provide the above-described services under IDEA (see section 101(c) of the Rehabilitation Act and §361.22(c) of the VR regulations).

The Formal Interagency Agreement

Purpose of the service;

- Rehabilitation counseling that is necessary for the provision of FAPE should be provided by the school, whereas, rehabilitation counseling necessary for an employment outcome may be provided by the VR agency.

Customary services;

- if the school ordinarily provides job exploration counseling to its students, that does not mean that the school should cease providing the service simply because the service could also be provided as a pre-employment transition service under the Act by the VR agency. And

Eligibility for services.

- Is the student with a disability eligible for transition services under IDEA? R agencies may provide pre-employment transition services and group transition services to these students, whereas the schools may not do so under IDEA.

Framework

- Purpose
- Minimum Required Components
- Criteria for Delineating Roles and Responsibilities
- Criteria Related to Section 511
- Procedures to Resolve Disputes*
- Identify Parties to the Agreement
- Signed by Authorized Officials
- Dated, and Reviewed/Updated Regularly

Minimum Required Components

- Pre-employment transition services;
- Consultation and technical assistance;
- Transition planning;
- Roles and Responsibilities, along with financial responsibilities;
- Outreach to and identification of students with disabilities;
- Documentation requirements for students seeking subminimum wage employment; and an
- Assurance neither SEA nor LEA will enter into an arrangement with 14c certificate holder under which a youth with a disability is engaged in work at a subminimum wage.

IDEA Regulations and the Interagency Agreement

IDEA Regs and the Agreement

- Establishing responsibility for services. IDEA§300.154
 - The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each non educational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section.

IDEA Regs and the Agreement

- **The agreement or mechanism must include the following:**
 - **Fiscal Responsibility**
 - **Disputes**
 - **Coordination of Services**

IDEA Regs and the Agreement

- **Fiscal Responsibility**
 - An identification of, or a method for defining, the financial responsibility to ensure FAPE to children with disabilities. IDEA§300.153(a)(1)
 - The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies. IDEA§300.154(a)(2)

IDEA Regs and the Agreement

- Disputes
 - Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism. IDEA§300.154(a)(3).

IDEA Regs and the Agreement

- Coordination of Services
 - Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services IDEA§300.154(a)(4).
 - Services to include but not limited to:
 - Assistive technology devices and services IDEA §300.5 and §300.6
 - Related Services in IDEA §300.34 including rehabilitation counseling
 - Supplementary Aides and Services in IDEA §300.42
 - Transition Services included in IDEA§ 300.43

IDEA Regs and the Agreement

- Other topics to consider including in the Interagency Agreement:
 - Referral to Vocational Rehabilitation
 - Technical assistance and training

IDEA Regs and the Agreement

- Referral to Vocational Rehabilitation
 - A process and responsibilities for LEA referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available. IDEA §300.107

IDEA Regs and the Agreement

- Technical Assistance and Training
 - How professional development and technical assistance will be provided by the state agencies to ensure that teachers and administrators are fully informed of their responsibilities and provided TA and training necessary to assist in this effort. IDEA§300.119

The Formal Interagency Agreement between VR and the SEA

WINTAC Toolkit Guide

Pre-employment Transition Services (Pre-ETS) Coordination and Collaboration



Strategies to Enhance Coordination and Collaboration:

- Communicate with Education to Identify Potentially Eligible Students, and Obtain Greater Student Access
- Partner with Education to Develop Pre-ETS Services
 - In school
 - After school
 - Summer
- Contract with Providers/Vendors for Services to Potentially Eligible
- Strengthen Partnerships with Employers and Other Agencies
- **Cross-Training**



TOPIC AREA



IMPLEMENTATION OF SECTION 511 REQUIREMENTS

LIMITATIONS ON THE USE OF SUB MINIMUM WAGE (SMW)

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.

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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.

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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

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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

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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
- Under Section 511, state and local educational agencies cannot contract or have any other type of arrangement with a business/service provider to pay a youth subminimum wage. However, educational agencies may still contract with a holder of a 14(c) certificate to provide other services, such as assisting a student to find an after-school or summer job in competitive integrated employment.

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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

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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

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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

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Requirements Related to Youth with Disabilities WINTAC (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.

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Career Counseling, Information and Referral Services (CC& I & R) WINTAC

- 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

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Career Counseling, Information and Referral Services



- Information on a 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

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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

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

- CCIR must be carried out:
- Once every six months prior to July 22, 2017
- Annually thereafter

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Resources



Section 511 portion of the WINTAC Website
<http://www.wintac.org/topic-areas/implementation-of-requirements>

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Pre-employment Transition Services (Pre-ETS): Resources



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

[WINTAC Pre-ETS](#)



Additional Resources

- [Frequently Asked Fiscal Questions — Pre-Employment Transition Services](#)
- [FAQs Pre-employment transition services Responses from RSA](#)
- [Auxiliary Aids and Services for Students with Disabilities In the Provision of Pre-Employment Transition Services](#)
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Thank You



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