

## Frequently Asked Questions about the Workforce Innovation and Opportunity Act (WIOA)

### Frequently Asked Questions

#### 1. What is “WIOA”?

WIOA is the acronym for new federal legislation titled the **Workforce Innovation and Opportunity Act**. The WIOA was signed into law in July 2014 to replace the portion of the Rehabilitation Act formerly called the Workforce Investment Act (WIA). Components of the WIOA specific to educational services went into effect on July 22, 2016. The WIOA includes new responsibilities for schools, in partnership with the Division of Vocational Rehabilitation (DVR) and adult services, to support students and youth with disabilities to transition from school to college and/or competitive integrated employment. The WIOA, specifically sections **361.22(c)** and **397.10**, outline requirements for the State Education Agency (SEA)—or the Wisconsin Department of Public Instruction (DPI)—and the Local Education Authority (LEA)—or the school district—to continue to ensure that students with disabilities have transition services as mandated in the Individuals with Disabilities Education Act (IDEA) to meet the responsibilities for the provision of free appropriate public education (FAPE).

#### 2. What are the new responsibilities for schools?

The WIOA strengthens requirements for transition services to support meaningful opportunities for students with disabilities to prepare for, obtain, maintain, and advance in competitive integrated employment.

#### 3. How does the WIOA define competitive integrated employment?

The WIOA defines **competitive integrated employment** as full or part time work that is paid at **minimum wage or higher** and at the **same rate as other employees doing similar jobs** or, if self-employment, yields income comparable to persons without disabilities doing similar tasks.

In addition, the WIOA’s definition of competitive integrated employment includes having 1) the same benefits as those provided to other employees, 2) opportunities to interact with persons who do not have disabilities and who are not in a supervisory role to them, and 3) opportunities for advancement as appropriate.

#### 4. What does the WIOA mean for school-DVR partnerships?

Under the WIOA, the DVR is now an enhanced transition partner with schools, providing additional services and supports to increase employment outcomes for students with disabilities. School and the DVR staff in Wisconsin will continue to collaborate and coordinate services to students with disabilities as outlined in the Transition Action Guide (TAG). Together, schools and the DVR will ensure opportunities for students with

disabilities to work toward integrated and competitive employment outcomes through the provision of pre-employment transition services (Pre-ETS).

5. What are the pre-employment transition service (Pre-ETS) categories required under the WIOA?

Sections **397.20 and 397.30** require that the DVR, in collaboration with schools or local educational authorities, provide a specified set of transition services to students with disabilities ages 14-21. Pre-ETS categories in the WIOA include:

- **job exploration** counseling,
- **work-based learning** experiences (which may include in-school or after school opportunities and experiences outside the traditional school setting, including internships, that are provided in an integrated environment),
- counseling on opportunities in comprehensive transition or enrollment in **postsecondary education and training programs**,
- workplace readiness training to develop **social and independent living skills**, and
- instruction in **self-advocacy**, which can include peer mentoring.

6. How will schools document and track the selection and provision of Pre-ETS to students with disabilities?

The DPI has revised the list of transition service options available in the Postsecondary Transition Plan (PTP) to align with the WIOA Pre-ETS categories. The list of revised services can be found at [http://witig.org/wstidata/resources/transition-services-full-9-29-16\\_1476202090.pdf](http://witig.org/wstidata/resources/transition-services-full-9-29-16_1476202090.pdf). The PTP is an on-line application designed to meet transition planning requirements used for all students with disabilities in Wisconsin by age 14 as part of the Individualized Education Program (IEP). The transition service options available through the drop-down menu selections in the PTP match the WIOA Pre-ETS categories. Workplace readiness training in the PTP was split into two categories: one for services to support social and independent living skills for *home* and another for *community*.

As students and their IEP teams complete the PTP as part of the IEP process, the services selected will support best practice in helping all students become college and career ready during the transition planning years. The DPI is also working to include a method by which IEP teams will document the actual provision of selected transition services for the prior year when completing the annual IEP/PTP. Through this process, schools and the DVR will also be able to work together to ensure opportunities for all students with disabilities to work toward their post-school goals.

7. What does the WIOA say about sub-minimum wage employment?

Another section in the WIOA, called Section 511, went into effect on July 22, 2016. This section also promotes employment in the community at minimum wage or higher and is a focus of the congressional language. Section 511 in the new law provides specific rules related to allowable payment of wages and provision of integrated community-based services to students and youth with disabilities ages 14-24. Section 511 of the WIOA includes two major changes school districts, IEP teams, students, and family members need to know.

The first is a requirement that all youth under age 25 work with the DVR prior to being employed in sub-minimum wage employment.

The second is a prohibition on school districts operating a program or entering into a contract with a vendor for the purpose of providing employment or employment training to a student in sub-minimum wage employment.

8. What are the specific requirements for youth to work with the DVR under Section 511 of the WIOA?

Under Section 511, a special 14(c) wage certificate holder (community rehabilitation providers or sheltered workshops) is not permitted to employ a person under the age of 25 at sub-minimum wage until after the youth has

- enrolled in the DVR,
- created an Individual Plan for Employment (IPE),
- received appropriate Pre-ETS services, and
- was unable to achieve the employment goal in their IPE after a reasonable amount of time (determining what constitutes a reasonable amount of time has not yet been clearly defined and is currently at the discretion of the DVR and the support team).

Additionally, Section 511 requires that

- a student considering employment at a subminimum wage be referred to the DVR, have an IPE in place, and participate in community work experience at minimum wage or higher without a successful competitive integrated employment outcome prior to entry in a sub-minimum wage situation; and
- the DVR, in conjunction with the school, provide documentation to the student or youth no later than 90 days after services have ended demonstrating the completion of appropriate Pre-ETS and IDEA services without achievement of the competitive integrated employment goal.

9. What does Section 511, Part 397, of the WIOA say about school transition programs and contracted transition services?

Part 397, specifically section 397.31, prohibits the SEA (DPI) and the LEA (school district) from entering into a contract for the purpose of operating a program under which a youth with a disability is engaged in work compensated at sub-minimum wage. Thus, a school district may not enter into a contract or other arrangement for this purpose and may also not be holder of a 14(c) wage certificate and operator of a program under which a student works for a sub-minimum wage. In combination with section 397.10 referenced above, schools must ensure transition services adhere to requirements outlined in both the IDEA and the WIOA when entering into contracts with outside entities for the provision of such services to students.

Examples of 14(c) wage certificate holders may include community rehabilitation providers, sheltered workshops, enclaves, traveling crews or private businesses that pay sub-minimum wage.

A list can be found here:

<https://webapps.dwd.state.wi.us/ShelteredWorkshopDisplay/Presentation/Reports/ApprovedLicenses.aspx>

10. What does the WIOA say about students with intellectual and significant disabilities?

The WIOA specifies requirements for both schools and the DVR to ensure that students with all disabilities, including students with significant disabilities are included in supports and services in order to facilitate transition to integrated competitive employment and other outcomes. Section 113 of the WIOA states specific responsibility for “developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment.”

The WIOA includes use of customized employment strategies to support students with significant disabilities. All students, regardless of disability, need to work with the DVR before public sources can be used to fund employment at sub-minimum wage.

11. What can schools do to ensure compliance with the WIOA?

- Determine if any students are receiving school-funded transition services that are no longer allowable under the WIOA. Convene an IEP/PTP team meeting to revise the IEP and PTP to include pre-employment transition services and support for the exploration of employment opportunities that are integrated and competitive.
- Work with the DPI and Transition Improvement Grant (TIG) to develop or expand the provision of pre-employment transition services provided by your district.
  - Assigned TIG Coordinators by CESA area: <http://www.witig.org/contact-us/>
- Contact your local DVR representative to refer students with disabilities for services at least **2 years prior to graduation/exit** or earlier if additional planning and services may be required due to multiple barriers to successful competitive integrated employment.
  - Assigned DVR Counselors by school: [http://dwd.wisconsin.gov/theDVR/pdf\\_files/school\\_liaisons.pdf](http://dwd.wisconsin.gov/theDVR/pdf_files/school_liaisons.pdf)
- Work in collaboration with the assigned DVR counselor to identify community resources and provide integrated and competitive work-related activities.
- Continue to use the Transition Action Guide (TAG) to assist in the improvement of communication, coordination, and services for students with disabilities transitioning from school to work.
  - TAG link: [http://dwd.wisconsin.gov/theDVR/pdf\\_files/tag.pdf](http://dwd.wisconsin.gov/theDVR/pdf_files/tag.pdf)
- Contact your local DVR representative for coordination, technical assistance, funding and new services for students with disabilities.
- Use information from the *Academic and Career Plan* (<http://dpi.wi.gov/acp>), beginning in 2017 or earlier, when developing a student IEP/PTP, 504 plan, and other accommodation plans in order to identify individualized employment goals and coordinate appropriate transition services.