



# STATE OF IOWA

KIM REYNOLDS, GOVERNOR  
ADAM GREGG, LT. GOVERNOR

DEPARTMENT OF EDUCATION  
RYAN M. WISE, DIRECTOR

**TO:** AEA Directors of Special Education, Superintendents and IEP Teams

**FROM:** Barbara Guy, State Director of Special Education

**DATE:** March 7 , 2018

**RE:** School Responsibility for Employment Preparation

The Iowa Department of Education (IDOE) and Iowa Vocational Rehabilitation Services (IVRS) have received numerous questions regarding district responsibilities to prepare students with individualized education programs (IEPs) for employment. The intent of this memo is to clarify the primary legislative authority and provide guidance on how those requirements interact with requirements of other related legislation.

The Individuals with Disabilities Education Act (IDEA) is the primary legislative authority for district responsibility to prepare students with IEPs for employment. IDEA requires IEP teams to provide a coordinated set of activities that will help the student move from school to postschool activities, including integrated employment, that are needed as a result of the individual's disability. This means that IEP teams must do a comprehensive assessment in the area of employment to determine the needs of students which are the result of the individual student's disability. *If a need is identified, the district must provide the appropriate service or activity.*

Nothing precludes the district from partnering with another agency to provide services, but if the agency is unable to provide the service, the IEP team must reconvene to consider alternate strategies. *Ultimately, the responsibility always remains with the district.* For example, an IEP team identifies a need for a student to have a job experience to build work stamina. IVRS agrees to develop a job that would develop the individual's work stamina. A job is located that matches the student's needs, but the hours are evenings and weekends and the student will need a job coach during work hours. Since the job is not directly related to the individual's long term career goal, IVRS will not pay for the job coach. The IEP team may decide to go ahead with the placement and provide the job coach. If the IEP team decides not to provide a job coach for that placement, the IEP team must reconvene to determine whether there are other strategies available to build the student's work stamina. They may find another job during the school day or find another way of meeting the student's need. They may not discontinue the service simply because the district does not want to pay for a job coach. If the student's need still exists, the district must find a way to meet the need.

Grimes State Office Building - 400 E 14th St - Des Moines IA 50319-0146

PHONE (515) 281-5294 FAX (515) 242-5988

[www.educateiowa.gov](http://www.educateiowa.gov)

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While IDEA is the primary legislative authority for districts, the district is also obligated to comply with portions of the Workforce Innovation and Opportunity Act (WIOA). This legislation and its implementing regulations are designed to strengthen and improve the nation's public workforce development system and help Americans with significant barriers to employment, including individuals with disabilities, into high quality jobs and careers and help employers hire and retain skilled workers. WIOA became law on July 22, 2014 and affects the Departments of Labor and Education, including the Office of Rehabilitation Services (OSERS) which has regulatory authority over rehabilitation services and special education programs. The underlying presumption of WIOA is that youth with disabilities can be successful in competitive, integrated, employment- working with people without disabilities for at least minimum wage. There are two primary areas of WIOA that have implications and requirements for schools: 1). Pre-Employment Transition Services (Pre-ETS) and 2). Sub-minimum wage. See below for further discussion of these two areas.

1. *WIOA Section 113: Pre-Employment Transition Services (Pre-ETS).*

This section of WIOA requires IVRS, *"in collaboration with the local educational agencies involved"*, to provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for IVRS services. This includes students with an IEP. WIOA goes on to identify five specific types of pre-employment transition 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 postsecondary 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.

While IVRS must provide or arrange for the provision of Pre-ETS, IEP teams are required to determine whether an individual student with an IEP needs employment preparation as a result of the individual's disability. If the student has a need, the IEP team must identify and provide the services that meet that need, which may or may not include one or all five of the pre-employment transition services identified in WIOA. These overlapping interests of IVRS and educational staff underline the need for close and ongoing collaboration across agencies. In addition, IDEA requires invitation to the IEP meeting of a representative of any participating agency that is likely to be responsible for providing or paying for transition services, with parent permission.

The district does have the obligation of reporting which of the pre-employment transition services have been provided to the student. This can be done in a variety of methods such as completing the Summary for Postsecondary Living, Learning and Working or sharing the IEP, including progress monitoring.

2. *WIOA Section 511- Limitations on Use of Subminimum Wage.* Section 511 of WIOA establishes the roles and responsibilities of the VR program and State and local educational agencies in assisting individuals with disabilities, including youth with disabilities, to maximize opportunities to achieve competitive integrated employment through services provided by VR and local educational agencies. This section emphasizes that individuals with disabilities, including those with the most significant disabilities, can achieve competitive integrated employment if provided the necessary supports and services. The limitations imposed by section 511 reinforce this belief by requiring individuals with disabilities, including youth with disabilities, to satisfy certain service-related requirements in order to start or maintain, as applicable, subminimum wage employment.

Before a district can consider subminimum wage for a student with an IEP, the student must have been provided the five pre-employment transition services listed above and not have demonstrated success in the activities. Specifically, districts are prohibited from contracting with agencies to provide sub-minimum wage experiences for students with disabilities. The provisions of Section 511 only apply to compensation at subminimum wage, not the location. This means that districts may enter into contracts with sheltered work sites if the pay is at least at minimum wage.

This memo is intended to clarify the legal responsibilities of schools to consider and provide employment preparation for students who have an IEP. It is not intended to provide detailed information on the processes needed to implement these responsibilities. The Department of Education in collaboration with Iowa Vocational Rehabilitation Services continue to provide ongoing guidance and support to students and their families, IEP teams, rehabilitation counselors, educators, districts, and field offices.

For questions please contact Nancy Ankeny-Hunt at [nancy.ankeney-hunt@iowa.gov](mailto:nancy.ankeney-hunt@iowa.gov) or Mary Jackson at [mary.jackson@iowa.gov](mailto:mary.jackson@iowa.gov)