



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: January 18, 2023
To: Local Educational Agency Leads, Administrators of Nonpublic Schools
Route To: Directors of Special Education
From: Kim Murray, Director
Office of Special Education

Information on the Workforce Innovation and Opportunity Act

The following information regarding the federal “Workforce Innovation and Opportunity Act” (WIOA) and its associated federal regulations is designed to assist school staff in understanding how this law impacts services for students with disabilities as they transition from school to adult life. This memo focuses on two specific sections of the law that impact schools and students with disabilities: Section 113, the provision of Pre-Employment Transitions Services, and Section 511, limitations on the use of subminimum wage.

Pre-Employment Transitions Services (Pre-ETS)

Under Section 113 of WIOA, each state is required to provide Pre-ETS to eligible students with disabilities. In New Jersey, the state Department of Labor and Workforce Development, Division of Vocational Rehabilitation Services (DVRS), and the state Department of Human Services, Commission for the Blind and Visually Impaired (CBVI) are the agencies, working in collaboration with local education agencies, who are responsible for providing and arranging for the provision of Pre-ETS to eligible students with disabilities.

These services can be provided in a group or on an individual basis. Students with disabilities in New Jersey aged 14 through 21 (or older if they remain enrolled in high school due to pandemic related issues; see the [NJDOE memo](#) regarding P.L.2021 c.109 dated April 20, 2022 for more information) who intend to pursue employment are considered by WIOA to be “potentially eligible” for vocational rehabilitation services, and may receive needed Pre-ETS without an application for eligibility with DVRS or CBVI if they are:

1. Eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act, or
2. An individual with a disability, for purposes of section 504 of the Rehabilitation Act.

While a variety of services may be provided to students through WIOA, the Pre-ETS that must be offered to all “potentially eligible” students, based on their individual needs, include the following:

- [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 postsecondary educational programs at institutions of higher education;
- [Workplace readiness training](#) to develop social skills and independent living skills; and
- [Instruction in self-advocacy](#), which may include peer mentoring.

Students (and their parents or guardians if under age 18) can request Pre-ETS from DVRS by completing the [online Pre-ETS referral form](#). To request Pre-ETS for a student who is blind, deaf-blind, or visually impaired, students should contact the student’s CBVI teacher or a [regional CBVI office](#).

If at any time students with disabilities need other “traditional” vocational rehabilitation services not included in Pre-ETS, such as supported employment, job coaching, or vehicle modifications, they can apply for eligibility with DVRS by [completing an online student referral form](#). Students who are blind, deaf-blind, or visually impaired, can apply through a [regional CBVI office](#). If a student is already receiving Pre-ETS from CBVI, an application for eligibility can be requested through the student’s CBVI Transition Counselor. If students are determined eligible for “traditional” vocational rehabilitation services from DVRS or CBVI, they can receive these services while still in school and as needed after graduation.

Nothing contained in WIOA should be construed as a reduction in the responsibilities of a local education agency (LEA) to coordinate and to provide transition services as required under IDEA and N.J.A.C. 6A:14. The Pre-ETS that are provided by DVRS or CBVI to a student should be coordinated with other transition services provided by the school district and others, since Pre-ETS are intended to enhance the transition services in a student’s Individualized Education Program (IEP), LEAs must collaborate with DVRS and CBVI to ensure that the provision of Pre-ETS is complementary to the transition services being provided to each student age 14 and older with an IEP. IEPs should contain documentation of the consideration of currently needed Pre-ETS and any Pre-ETS provided to the student in the past.

Limitations on the Use of Subminimum Wage

Section 511 of WIOA places limitations on the use of subminimum wage. LEAs are prohibited from entering into a contract with an entity holding a special wage certificate under Section 14(c) of the Fair Labor Standards Act. Often referred to as a Sheltered Workshop Certificate, it allows entities to engage adults and youths with disabilities to engage in work at a subminimum wage, including no wages. For example, students with disabilities cannot be placed by their school district in a local sheltered workshop to perform work as a “volunteer” or “trainee,” or to receive subminimum wages (i.e., currently below \$14.13 per hour). WIOA does allow LEAs to contract with entities that have a certificate under Section 14(c) of the Fair Labor Standards Act to provide other services for students with disabilities, such as supported employment, job coaching and community-based vocational assessments, but not programs where work is performed by a student for subminimum wage including no wages. DVRS maintains an online directory of [approved community rehabilitation programs](#).

Contact Information

For information and resources regarding transition planning for students with disabilities, please refer to the [New Jersey Transition Toolkit](#). Contact Bill Freeman at (609) 376-3734 or by email at bill.freeman@doe.nj.gov or Jo-Ann Johnson at (609) 376-3433 or by email at Joann.johnson@doe.nj.gov for questions or information about transition planning for students with disabilities.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group