

## **ARIZONA DEPARTMENT OF ECONOMIC SECURITY**

**Program Name:** Vocational Rehabilitation (VR)

**Policy Number:** VR-14.1-v2

**Effective Date:** July 1, 2008

**Last Revision:** March 3, 2025

**CHAPTER 14:** Special Populations

**Section 14.1:** Subminimum Wage Employment

### **I. Policy Statement**

This policy outlines the responsibilities of Vocational Rehabilitation (VR) under Section 511 of the federal Workforce Innovation and Opportunity Act (WIOA) of 2014 concerning youth with disabilities aged 24 and younger who are seeking employment at subminimum wages, as well as individuals with disabilities already working in subminimum wage jobs.

### **II. Authority**

Authority for policies contained in this document includes the following:

- Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. § 3101 et seq.
- Title IV Amendments to the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.
- State Vocational Rehabilitation Services Program, 34 CFR § 397, Limitations on Use of Subminimum Wage.
- Arizona Revised Statutes:
  - § 23-502, and
  - § 23-503.

### **III. Applicability**

This policy applies to youth with disabilities 24 years of age or younger who have been referred to VR due to their interest in subminimum wage employment, and persons with disabilities working in subminimum wage employment.

### **IV. Standards**

#### **A. General Provisions**

1. Section 511 of the Workforce Innovation and Opportunity Act (WIOA) restricts the payment of subminimum wages to workers with disabilities by entities that hold special wage certificates under Section 14(c) of the Fair

Labor Standards Act, known as 14(c) Certificate Holders. The purpose of Section 511 is to ensure that individuals with disabilities have access to information and opportunities to explore competitive integrated employment options. Section 511 requires that youth seeking subminimum wage employment, as well as individuals currently earning subminimum wages, learn about Vocational Rehabilitation (VR) services and how VR can assist them in working towards competitive integrated employment.

2. Section 511 Requirements for Youth with Disabilities:
  - a) A youth with a disability who is interested in subminimum wage employment must complete required activities that promote the consideration of competitive integrated employment before entering employment that pays less than the federal minimum wage, known as subminimum wage employment.
  - b) VR is responsible for providing documentation of the completion of all required activities to youth ages 24 and younger who are seeking subminimum wage employment with a 14(c) Certificate Holder.
3. Section 511 Requirements for Individuals with Disabilities in Subminimum Wage Employment:
  - a) Any individual with a disability in subminimum wage employment must be provided with career counseling and information and referral services throughout their employment to ensure an understanding of employment options, including competitive integrated employment.
  - b) VR is responsible for providing career counseling information and referral services to individuals of all ages working in subminimum wage employment with a 14(c) Certificate Holder at various intervals throughout their employment.
4. When a youth with disability submits a referral to VR and requests subminimum wage employment, VR must inform the youth of the following:
  - a) The youth must complete the required activities listed in IV(B) of this policy to be able to participate in subminimum wage employment.
  - b) Refusal to participate in the required activities will result in the youth's inability to participate in subminimum wage employment until the youth reaches the age of 25.
5. The VR Counselor is responsible for coordinating the planning and delivery of required activities for youth and individuals with disabilities. This includes working with other provider agencies such as Public Education Agencies (PEAs), the Division of Developmental Disabilities (DDD), behavioral health organizations, and 14(c) Certificate Holders, as applicable.
6. The VR Counselor must obtain a Release of RSA Information form to communicate and coordinate services with other providers as necessary.

## B. Youth Seeking Subminimum Wage Employment

1. Youth Required Activities: A youth with a disability who is seeking subminimum wage employment must participate in all of the following activities to enter subminimum wage employment:
  - a) Pre-Employment Transition Services provided by VR (refer to Section 11.1 Pre-Employment Transition Services of this policy manual), or Transition services provided by a Public Education Agency (PEA),
  - b) Career counseling and information and referral services from VR to federal and state programs and other community resources that offer employment-related services and supports designed to help the individual explore competitive integrated employment, and
  - c) Application for the VR program and a determination that the youth is:
    - (1) Ineligible for VR services, or
    - (2) Eligible for VR services and
      - (a) The youth had an approved Individualized Plan for Employment (IPE),
      - (b) The youth was unable to achieve their employment outcome, despite working toward the employment outcome with reasonable accommodations and appropriate support and services for a reasonable period of time, and
      - (c) The youth's case was closed due to the inability to achieve an employment outcome.
2. VR Documentation Verifying Youth Required Activities: VR must provide the youth with documentation of the completion of required activities. The following VR verification forms are provided to confirm the completion of any or all of the required activities:
  - a) *Verification of Transition Services (RSA-511A)*,
  - b) *Verification of Pre-Employment Transition Service (RSA-511B)*, applicable when the youth is required to participate in Pre-ETS,
  - c) *Incomplete - Transition and Pre-ETS (RSA-511G)*, applicable when verification of transition services cannot be obtained from the Public Education Agency (PEA) and the youth has been determined ineligible for Pre-ETS,
  - d) *Verification of Career Counseling Information and Referral (RSA-511C)*,
  - e) *Verification of Application and Eligibility (RSA-511D)*,

- f) *Verification of IPE Development, Receipt of IPE Services, Case Closure (RSA-511E)*, when the youth is determined eligible for VR, and
  - g) *Verification of Services Cover Sheet (RSA-511F)*.
3. Participation and Verification of Youth Required Activities:
- a) Transition Services provided by a Public Education Agency (PEA):
    - (1) Before accepting an application for VR services, the VR Counselor must inquire whether the youth completed transition services. Transition services are considered complete if the youth has an Individualized Education Plan (IEP) containing transition services and the youth has exited high school (i.e. graduated, aged out, dropped out).
    - (2) If the youth indicates they have completed transition services, the VR Counselor sends the *Verification of Transition Services (RSA-511A)* and the *Authorization for Disclosure of Health Information to RSA* forms to the associated District Office for completion. District Offices may be located using the Arizona Department of Education website.
    - (3) In instances when the youth did not complete transition services through a PEA, the VR Counselor must verify the youth is a student with a disability and is potentially eligible for Pre-Employment Transition Services (Pre-ETS) per Section 11.1 Pre-Employment Transition Services of this policy manual before providing Pre-ETS.
  - b) Pre-Employment Transition Services (Pre-ETS):
    - (1) The VR Counselor must discuss with the youth/youth's legal guardian whether Pre-ETS are appropriate and necessary to meet the youth's needs and provide or arrange for the provision of the agreed upon Pre-ETS.
    - (2) If the youth participates and completes Pre-ETS, the VR Counselor completes and provides the *Verification of Pre-Employment Transition Service (RSA-511B)* form to the youth.
    - (3) When VR cannot obtain verification of transition services from the PEA and the youth has been determined ineligible for Pre-ETS, the VR Counselor completes and provides the *Incomplete - Transition and Pre-ETS (RSA-511G)* form to the youth.
  - c) Career Counseling and Information and Referral Services: Career counseling and information and referral services must be provided during or upon completion of Transition Services, Pre-ETS, or within 30 days of an ineligibility decision or closure due to the youth not

meeting an employment outcome. The VR Counselor must complete and provide the *Verification of Career Counseling Information and Referral (RSA-511C)* form to the youth.

d) Application for the VR Program:

- (1) The youth participates and completes the VR application and intake process according to Section 3.1 Referral, Orientation, Intake Interview, and Application of this policy manual.
- (2) The VR Counselor determines the youth's eligibility for the VR program according to Section 3.2 Eligibility and Order of Selection of this policy manual.

(3) Ineligibility Determination:

- (a) Youth who choose subminimum wage employment over competitive integrated employment must be determined ineligible for VR.
- (b) Youth who are determined ineligible for VR must be provided with and informed of the following:
  - (i) The *Verification of Application and Eligibility (RSA-511D)* and *Verification of Services Cover Sheet (RSA-511F)* forms,
  - (ii) The youth can seek subminimum wage employment, and
  - (iii) The youth's VR case will be closed per Section 5.1 Closure Criteria of this policy manual.

(4) Eligibility Determination:

- (a) Youth who are determined eligible for VR will develop an Individualized Plan for Employment (IPE) per Section 4.3 IPE Development of this policy manual.
- (b) If the youth completes their IPE and achieves their employment outcome, no additional verification forms are provided to the youth.
- (c) If the youth is unsuccessful in achieving an employment outcome after receiving IPE services for a reasonable period of time, VR must complete the following:
  - (i) Provide the youth with the *Verification of IPE Development, Receipt of IPE Services, and Case Closure (RSA-511E)* and *Verification of Services Cover Sheet (RSA-511F)* forms,

- (ii) Notify the youth that they can seek subminimum wage employment, and
  - (iii) Close the youth's case per Section 5.1 Closure Criteria of this policy manual.
- (d) To determine a "reasonable period of time," VR must consider the disability-related and vocational needs of the youth, along with the expected duration needed to complete the services outlined in their individualized employment plan.
- e) Refusal to Participate in Required Activities:
  - (1) When the youth/youth's legal guardian refuses to participate in any of the required services, the following must be completed:
    - (a) Document the youth's refusal to participate in any of the required activities on VR verification corresponding to the activity (e.g. if the client refuses career counseling and information and referral), staff will indicate the refusal on the *Verification of Career Counseling Information and Referral RSA-511C* form,
    - (b) Complete the *Verification of Services Cover Sheet (RSA-511F)* form,
    - (c) Notify the youth that they are not eligible to seek subminimum wage employment, and
    - (d) Close the youth's case per Section 5.1 Closure Criteria of this policy manual.

### C. **Individuals Participating in Subminimum Wage Employment**

1. Individuals participating in subminimum wage employment must complete career counseling and information and referral services every six months for the first year of subminimum wage employment and then once a year afterward to maintain their subminimum wage employment with a 14(c) Certificate Holder.
2. Provision of Career Counseling and Information and Referral Services:
  - a) VR is responsible for providing career counseling and information and referral services.
  - b) VR collaborates with 14(c) Certificate Holders to offer career counseling and information referral services for individuals currently employed at subminimum wage.
  - c) VR provides the *Verification of Career Counseling Information and Referral (RSA-511C)* form to individuals working in subminimum

wage employment when the individual participates in the services. The form is provided to the individual or their legal guardian within 45 calendar days of completing the activity or 10 calendar days if the individual declines the services.

- d) With the permission of the individual, a copy of the *Verification of Career Counseling Information and Referral (RSA-511C)* form will also be shared with the 14(c) Certificate Holder.

## **V. Procedure**

- A. Refer to Standard Work, if applicable.
- B. Refer to the Youth with Disability Seeking Subminimum Wage flow chart.
- C. Youth Seeking Subminimum Wage Employment:
  - 1. Refer to IV(B) of this policy section.
  - 2. VR Documentation Verifying Youth Required Activities:
    - a) A copy of the completed *Verification of Transition Services (RSA-511A)* form must be provided to the youth/youth's legal guardian within 45 days of receiving verification from the PEA that Transition Services are complete or within 10 days of receiving verification that Transition Services were refused. A copy must be maintained by VR in the youth's Electronic Case File (ECF).
    - b) A copy of the completed *Verification of Pre-Employment Transition Services (RSA-511B)* form must be provided to the youth/youth's legal guardian within 45 days of completion of Pre-ETS or within 10 days of refusal for the Pre-ETS. A copy must be maintained by VR in the youth's ECF.
    - c) A copy of the completed *Verification of Career Counseling and Information and Referral (RSA-511C)* form must be provided to the youth/youth's legal guardian within 45 days of completion or within 10 days of refusal for the career counseling and information and referral service. A copy must be maintained by VR in the youth's ECF.
    - d) A copy of the completed *Verification of Application and Eligibility (RSA-511D)* form must be provided to the youth/youth's legal guardian within 45 days of completion or within 10 days of refusal to complete the application for VR services and eligibility determination process. A copy must be maintained by VR in the youth's ECF.
    - e) A copy of the completed *Verification of IPE Development, Receipt of IPE Services, and Case Closure (RSA-511E)* form must be provided to the youth/youth's legal guardian within 45 days of completion or



within 10 days of refusal to participate in: the development and implementation of an IPE, receipt of IPE services including reasonable accommodations and supports, for a reasonable period of time, and case closure based on the determination that the youth is unable to reach their employment outcome. A copy must be maintained by VR in the youth's ECF.

- f) A copy of the completed *Verification of Services Cover Sheet (RSA-511F)* form must be provided to the youth/youth's legal guardian when the last verification of services form is provided to the youth/youth's legal guardian. A copy must be maintained by VR in the youth's ECF.

- 3. Refer to Section 11.1 Pre-Employment Transition Services of this policy manual for details about the service provision.

D. Individuals Participating in Subminimum Wage Employment:

- 1. Refer to IV. (C) of this policy manual.
- 2. VR Documentation Verifying participation in career counseling and information and referral services for Individuals in Subminimum Wage Employment:
  - a) A copy of the *Verification of Career Counseling Information and Referral (RSA-511C)* form is provided to individuals working in subminimum wage employment when the individual participates in the service. The form is provided to the individual or their legal guardian within 45 calendar days of completing the activity, or within 10 calendar days if the individual declines the services.
  - b) With the permission of the individual, a copy of *the Verification of Career Counseling Information and Referral (RSA-511C)* form will also be shared with the 14(c) Certificate Holder.

## VI. Documentation Requirements

- A. The youth's ECF must include the following forms:
  - 1. *Verification of Transition Services (RSA-511A)*,
  - 2. *Verification of Pre-Employment Transition Service (RSA-511B)*, applicable when the youth is required to participate in Pre-ETS,
  - 3. *Incomplete - Transition and Pre-ETS (RSA-511G)*, applicable when verification of transition services cannot be obtained from the PEA and the youth has been determined ineligible for Pre-ETS,
  - 4. *Verification of Career Counseling Information and Referral (RSA-511C)*,



5. *Verification of Application and Eligibility (RSA-511D),*
6. *Verification of IPE Development, Receipt of IPE Services, Case Closure (RSA- 511E), when the youth is determined eligible for VR, and*
7. *Verification of Services Cover Sheet (RSA-511F).*