Vocational Rehabilitation Services and WIOA

The Workforce Innovation and Opportunity Act
Vocational Rehabilitation Services (VRS)

- State employment services program for persons with significant disabilities
- Serves youth and adults
  - Youth: A counselor is assigned to each high school in the state.
  - Adults: Contact the office nearest you. Most offices are located in MN Workforce Centers.
- [https://mn.gov/deed/vrs](https://mn.gov/deed/vrs)
President Barack Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law on July 22, 2014.

- Key changes impacting persons with disabilities:
  - Pre-employment transition services (Pre-ETS).
  - Limitations on the use of subminimum wage.
- Final regulations published 08-19-16.
  - [https://federalregister.gov/a/2016-15980](https://federalregister.gov/a/2016-15980)
More collaboration than ever before
1. Pre-Employment Transition Services (Pre-ETS)
Pre-Employment Transition Services (Pre-ETS)

• VRS in collaboration with the local educational agencies involved, must provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services.

• Pre-employment transition services must be made available statewide to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services.
5 Required Pre-ETS Activities

• Job exploration counseling
• Work-based learning experiences
• Postsecondary education counseling
• Workplace readiness training
• Instruction in self-advocacy

Definitions and resources at: www.wintac.org
“Student with a disability” means an individual with a disability in a secondary, postsecondary, or other recognized education program who—

- Is eligible for, and receiving, special education or related services under Part B of IDEA or is an individual with a disability, for purposes of section 504.
- Age range: Grade 9 through age 21.
Ensuring access to Pre-ETS

• IDEA/ Special Education Transition Services:
  – Provided to all students in special education
  – Often include Pre-ETS
• Vocational Rehabilitation Services:
  – Will fill in the “gaps” that special education isn’t able to provide
  – Will continue to provide services who apply for VRS and are in an open priority category
  – Will also have contracts across the state to provide broader Pre-ETS services to those who haven’t applied for VRS
Based on Need

• Pre-ETS, as is true for any vocational rehabilitation service, must be provided solely on the basis of the individual’s need for that service.

• None of the provisions mandate that all five Pre-ETS activities be provided to each student with a disability if all the activities are not necessary.
2. Limitations on the use of Subminimum Wage
WIOA Section 511: Limitations on use of subminimum wage

- Youth **age 24 and under** cannot enter into subminimum wage employment without accessing VR services first.
- Effective **July 22, 2016**.
- Reduces the “tracking” of transition aged youth into subminimum wage jobs.
- Ensures the informed choice process includes consideration of, and experience with, competitive integrated employment.
WIOA Requirements

- WIOA does not prohibit youth ages 24 or younger from choosing to be employed at a subminimum wage but it requires those who are seeking this option to complete and receive documentation of...
Youth seeking subminimum wage employment must:

– Complete Pre-ETS or IDEA transition services while still in high school and eligible for special education services, **and**

– Apply for VRS and be determined ineligible or found eligible but **unsuccessful**\(^*\) in competitive integrated employment and their VRS case was closed, **and**

– Youth receive career counseling, information, and referral to other resources that could assist in securing competitive integrated employment.
*Defining “unsuccessful”*

“The youth with a disability was unable to achieve the employment outcome specified in the Employment Plan, despite working toward the employment outcome with reasonable accommodations and appropriate supports and services, including supported employment services and customized employment services, for a reasonable period of time.”
Right of Refusal

• Youth or their parent or guardian may refuse to apply for VRS. But **refusing** to participate in the required activities or opting out of the vocational rehabilitation process entirely will make the youth **ineligible** for subminimum wage employment.
  – Note that VRS has no enforcement authority over subminimum wage employers- this is done by US Department of Labor.
Informed Choice

• Informed choice process is at the heart of this work.
• Implementation guide created by DEED, DHS, MDE.
  – Outlines steps
  – Online toolkit: https://mn.DB101.org
• Special educators, VRS counselors, county social workers all play a role.
Contracting Restrictions

Neither a local educational agency, nor a State educational agency, may enter into a contract or other arrangement with an entity for the purpose of operating a program for youth under which work is compensated at a subminimum wage. (§397.31)
Coordination with Counties

• 2016 DHS Bulletin: “In cases where no other funding is available, waivers can fund supported employment services (SES) for youth in transition.”

Where we need to start together:

• Students “seeking subminimum wage employment” and graduating in 2017
  – Work with schools and counties to identify all students in this category.
  – Discuss work options with students and parents/guardians
  – Provide Pre-ETS as needed.
  – Take applications, determine eligibility, create plan.
  – Documentation process.
WIOA and Those Currently in Subminimum Wage Employment
On behalf of Vocational Rehabilitation Services (VRS), the eight Centers for Independent Living (CILs) in Minnesota will be responsible for ensuring that career counseling, information, and referral services are provided and documented for Adults:

- Over age 25 or older.
- Or 24 years of age or younger who started working before July 22, 2016.
- Working for subminimum wages which means they are earning less than the current Federal Minimum wage ($7.25 per hour).
Career Counseling, Information, and Referral services

• **The definition of Career Counseling is:** Career counseling includes job exploration and information regarding education, experience, interests, knowledge, skills and abilities for different jobs and matching the individual’s strengths, resources, priorities, concerns, abilities, capabilities and interests.

• **The definition of Information & Referral is:** Information and referral includes but is not limited to information about federal, state and local programs and other resources that offer services to help individuals with disabilities prepare for, secure, and maintain competitive integrated employment.
What Changed?

- New work rules started on **July 22, 2016**.
- Laws have changed to help ensure that individuals with disabilities who are earning subminimum wage have the opportunity to:
  - Explore competitive employment.
  - Be given a choice of employment options.
  - Explore options and resources available for employment.
CIL staff will meet 1:1 annually with individuals to provide career counseling, information, and referral services with the goal of having a meaningful conversation about work, using a person-centered approach. When a person makes an informed choice, he or she understands:

- All options for seeking competitive integrated employment.
- Methods to overcome barriers to competitive integrated employment.
- Potential risks and benefits of competitive integrated employment.
Adults do not need to participate if:

• Currently employed earning the Federal Minimum wage or above.

• Involved in a recreation program (without an employment component) and not receiving subminimum wages.
CIL staff will obtain documentation of their decision in pursuing competitive, integrated employment – Yes or No (or Refusal).

One copy will go to the individual, one copy will go to the 14 (c) employer, and one copy will be sent to VRS.
If someone says “No”

- The individual can continue to earn subminimum wage and no changes to their employment are made.
- CIL staff will fill out form career counseling, information, and referral service document and sign to acknowledge the career counseling, information, and referral service conversation happened.
- Documentation must indicate that there has been a unique conversation and identify the reason(s) the individual is choosing “No” at this time. The documentation should also include comments made by the individual.
If someone says “Yes”

• The CIL staff, along with the individuals Guardian/Legal Representation and team members, will identify the resources that are available, which may include but not limited to:
  – 14 (c) subminimum wage certificate holder
  – Waiver/County Supported Employment funds/other County resources
  – Extended Employment
  – VRS
  – ARMHS

• CIL staff will coordinate a meeting with the individual and their support team to identify and implement the next steps towards competitive, integrated employment.
If someone “refuses”

• If someone refuses to participate in the career counseling, information, and referral service process, the IL staff will explain that the consequence of that refusal is that the individual will no longer be able to be paid a subminimum wage.
WIOA - Adult Process

Attend Info Session

Conversation with CIL

Guardian/Individual sign the form

Yes I want to explore more employment

Team meeting to discuss options and develop a plan

No I want things to stay the same

Done until next year

Refuse to Participate

Guardian/Individual Sign the form Refusing

No conversation with MCIL

No subminimum wage employment

Yes I want to explore more employment

No I want things to stay the same

Done until next year

No conversation with MCIL

No subminimum wage employment
Questions?

Alyssa Klein, Transition Specialist
763-279-4374
alyssa.klein@state.mn.us

Amanda Jensen-Stahl, Program Specialist
651-259-7356
amanda.jensen-stahl@state.mn.us