



**LEAD CENTER**

# **Reviewing Your State's WIOA Unified or Combined State Plan from a Disability Perspective**

(Title IV-Vocational Rehabilitation  
Requirements)

**The National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD)** is a collaborative of disability, workforce and economic empowerment organizations led by **National Disability Institute** with funding from the **U.S. Department of Labor's Office of Disability Employment Policy**, Grant No. #OD-23863-12-75-4-11.

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# BACKGROUND

Under the Workforce Innovation and Opportunity Act (WIOA), every Governor must submit a Unified or Combined State Plan to the U. S. Secretary of Labor that outlines a four-year workforce development strategy for the State's workforce development system by April 1, 2016, including the State plan for Vocational Rehabilitation (VR), in which Title I of the Rehabilitation Act is amended by Title IV of WIOA.



# NOTE ON CITATIONS AND ADDITIONAL RESOURCES

- ▶ For a summary of Title IV with specific citations for each of the items on the following slide deck, please click [here](#)
- ▶ Additional resources:
  - ▶ For more information about Title I of WIOA, please see [\*Reviewing Your State's WIOA Unified or Combined State Plan from a Disability Perspective: WIOA Title I\*](#)
    - ▶ For specific citations for each of the items on the slide deck on Title I, click [here](#).
  - ▶ Full [WIOA Bill](#) Text
  - ▶ [TEGL 14-15](#) -- Workforce Innovation and Opportunity Act (WIOA) Requirements for Unified and Combined State Plans



# KEY PROVISIONS TO BE ADDRESSED IN UNIFIED OR COMBINED STATE PLAN

- I. Definitions
- II. Eligibility For Vocational Rehabilitation Services
- III. General State VR Services Strategies
- IV. Pre-employment Transition Services
- V. Subminimum Wages
- VI. State Supported Employment Program
- VII. Cooperative Agreements And Coordination
- VIII. Order Of Selection



# I. DEFINITIONS

- ▶ Competitive integrated employment
- ▶ Customized employment
- ▶ Employment outcome
- ▶ Supported employment
- ▶ Supported employment services
- ▶ Pre-employment transition services
- ▶ Student with a disability
- ▶ Youth with a disability



# COMPETITIVE INTEGRATED EMPLOYMENT

Work performed on a full or part-time basis (including self-employment) for which an individual is:

- ▶ Compensated at not less than federal minimum wage requirements or State or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by other individuals without disabilities;
- ▶ At a location where the employee interacts with other people who are not individuals with disabilities; and
- ▶ Presented, as appropriate, with opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #1

1. Does the VR services portion of the State Plan include and define the term “competitive integrated employment” consistent with WIOA Title IV amendments to the Rehabilitation Act?



# CUSTOMIZED EMPLOYMENT

Customized employment refers to:

- ▶ competitive, integrated employment for an individual with a significant disability;
- ▶ based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability;
- ▶ designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and
- ▶ carried out through flexible strategies.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #2

2. Does the VR services portion of the State Plan include and define the term “customized employment” consistent with Title I of the Rehabilitation Act, as amended by WIOA?



# EMPLOYMENT AND OUTCOME

The revised definition of “employment outcome” includes customized employment within its scope.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #3

3. Does the VR services portion of the State Plan include and define the term “employment outcome” to include customized employment within its scope, consistent with Title I of the Rehabilitation Act, as amended by WIOA?



# SUPPORTED EMPLOYMENT

The revised definition of supported employment:

- ▶ References competitive integrated employment and customized employment, and
- ▶ Requires that an individual who is employed in an integrated setting, but not in competitive integrated employment, must be working toward such an outcome on a short-term basis for such work to qualify as supported employment.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #4

4. Does the VR services portion of the State Plan include and define the term “supported employment” to reference competitive integrated employment and customized employment and require that an individual who is employed in an integrated setting, but not in competitive integrated employment, is working toward such an outcome on a short-term basis for such work to qualify as supported employment?



# SUPPORTED EMPLOYMENT SERVICES (CONT'D)

The revised definition of “supported employment services” extends the allowable timeframe for the provision of these services from 18 months to 24 months.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #5

5. Does the VR services portion of the State Plan include and define the term “supported employment services” to extend the allowable timeframe for the provision of these services from 18 to 24 months?



# PRE-EMPLOYMENT TRANSITION SERVICES (PETS)

- ▶ WIOA as amended requires “pre-employment transition services” in which VR agencies coordinate PETS with local educational agencies for students with disabilities who are eligible or potentially eligible for VR services.
- ▶ Required activities include, in part, job exploration counseling, work-based learning experiences, workplace readiness training, and instruction in self-advocacy.
- ▶ Local offices of State VR agencies must work with local workforce development boards, one-stop centers, employers, and schools.
- ▶ State VRs must reserve 15 percent of their VR funds to provide these services.



# IN REVIEWING THE PLAN DEFINITIONS: ASK #6

6. Does the VR services portion of the State Plan include and define the term “pre-employment transition services” and specify services, collaborations, and funding?



# STUDENT WITH A DISABILITY

WIOA, as amended, defines “student with a disability” to mean an individual with a disability in school who is:

- (1) at least 16 years old, unless the State elects to provide pre-employment transition services at a younger age, and no older than 21, unless the State provides transition services under the Individuals with Disabilities Education Act (IDEA) at an older age; and
- (2) receiving transition services under IDEA or Section 504 of the Rehabilitation Act.



# IN REVIEWING THE PLAN DEFINITIONS:

## ASK #7

7. Does the VR services portion of the State Plan include and define the term “student with a disability” as reflected in WIOA?



# YOUTH WITH A DISABILITY

WIOA as amended defines “youth with a disability” to mean an individual with a disability who is not younger than 14 years of age and not older than 24 years of age.



# IN REVIEWING THE PLAN DEFINITIONS:

## ASK #8

8. Does the VR services portion of the State Plan include and define the term “youth with a disability” as reflected in WIOA?



## II. ELIGIBILITY FOR VR SERVICES

As amended in WIOA:

- ▶ An individual with a disability whose physical or mental impairment constitutes a substantial impediment to employment may be determined eligible for VR services if he or she requires services to advance in employment;
- ▶ For purposes of an assessment for determining eligibility, an individual must be presumed to have a goal of an employment outcome.
- ▶ Prior to determining that an applicant is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for VR services, the State VR agency must explore the individual's abilities, capabilities and capacity to perform in work situations through the use of trial work experiences, with appropriate supports.



## II. ELIGIBILITY FOR VR SERVICES (CONT'D)

- ▶ In providing trial work experiences, the State VR agency must provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment.
- ▶ The ineligibility determination must be an individualized one, based on the available data, and must not be based on assumptions about broad categories of disabilities.
- ▶ The individual, or as appropriate, the individual's representative, must be informed in writing of the ineligibility determination, including the clear and convincing evidence that forms the basis for the determination of ineligibility.



# IN REVIEWING THE PLAN FOR ELIGIBILITY FOR VR SERVICES: ASK #9

9. Does the VR services portion of the State Plan include policies regarding eligibility for VR services that are consistent with Title I of the Rehabilitation Act, as amended by Title IV of WIOA and the principle that individuals with disabilities, including those with the most significant disabilities, are capable of achieving competitive integrated employment when provided the necessary skills and supports?



# III. GENERAL STATE VR SERVICE STRATEGIES

- ▶ Title IV of WIOA describes required VR services strategies and how the VR agency will use these strategies to achieve its goals and priorities, support innovation and expansion activities, and overcome any barriers to accessing the VR and the Supported Employment programs.
- ▶ WIOA also requires that VR's comprehensive needs assessment include a review of the needs of youth and students, especially with regard to:
  - ▶ pre-employment transition services,
  - ▶ the coordination of services with educational agencies and
  - ▶ the methods to improve the provision of VR services, especially transition services.
- ▶ VR program must comply with the common performance accountability measures established under WIOA, which apply to all core programs of the workforce development system.



# IN REVIEWING THE PLAN FOR GENERAL STATE VR SERVICES STRATEGIES: ASK #10

10. Does the VR portion of the State Plan describe:
- a. The methods to be used to expand and improve services to individuals with disabilities?
  - b. How the comprehensive needs assessment includes a review of the needs of youth and students, especially with regard to pre-employment transition services and the coordination of services with educational agencies?
  - c. How a broad range of assistive technology services and devices will be provided to individuals with disabilities at each stage of the rehabilitation process and on a statewide basis?



# IN REVIEWING THE PLAN FOR GENERAL STATE VR SERVICES STRATEGIES: ASK #10 (CONT'D)

10. Does the VR portion of the State Plan describe:
  - d. The outreach procedures that will be used to identify and serve individuals with disabilities who are minorities, including those with the most significant disabilities, as well as those who have been unserved or underserved by the VR program?
  - e. The methods to be used to improve and expand VR services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from school to postsecondary life (including the receipt of VR services, postsecondary education, employment, and pre-employment transition services)?
  - f. If applicable, plans for establishing, developing, or improving community rehabilitation programs within the State to promote competitive integrated employment, including customized and supported employment?



# INDICATORS OF PERFORMANCE

- ▶ The primary indicators of performance include:
  - ▶ the percentage of program participants who are in unsubsidized employment at different points after exit from the program;
  - ▶ the median earnings of program participants who are in unsubsidized employment at different points after exit from the program;
  - ▶ the percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent;
  - ▶ the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains toward such a credential or employment; and
  - ▶ effectiveness in serving employers



# IN REVIEWING THE PLAN FOR GENERAL STATE VR SERVICES STRATEGIES: ASK #11-12

11. Are there strategies for assisting components of the statewide workforce development system in working with individuals with disabilities?
  
12. Are there strategies to assist components of the workforce system to:
  - ▶ Achieve goals and priorities set by the State, consistent with the comprehensive needs assessment;
  - ▶ Support innovation and expansion activities; and
  - ▶ Overcome identified barriers relating to equitable access to and participation of individuals with disabilities in the State VR Services Program and the State Supported Employment Services Program?



# IV. PRE-EMPLOYMENT TRANSITION SERVICES (PETS)

Title IV of WIOA requires VR agencies to coordinate with local educational agencies in providing or arranging for the provision of pre-employment transition services to students with disabilities who are eligible or potentially eligible for VR services and in need of such services.

- ▶ Title IV specifies:
  - ▶ Required activities, such as job exploration counseling, work-based learning experiences, workplace readiness training, and instruction in self-advocacy.
  - ▶ Authorized activities to improve the transition of students with disabilities from school to postsecondary education or an employment outcome.
  - ▶ That each local office of a State VR agency must work with local workforce development boards, one-stop centers, employers, and schools.
  - ▶ States reserve 15% of their VR allotment to provide these services.



# REQUIRED PRE-EMPLOYMENT TRANSITION ACTIVITIES INCLUDE:

- ▶ 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 and independent living skills; and
- ▶ Instruction in self-advocacy, which may include peer mentoring.



# AUTHORIZED PRE-EMPLOYMENT TRANSITION (PETS) ACTIVITIES INCLUDE, IN PART:

- ▶ Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
- ▶ Developing and improving strategies for individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
- ▶ Coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (IDEA);
- ▶ Developing model transition demonstration projects; and
- ▶ Establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve PETS goals.



# IN REVIEWING THE PLAN PETS, ASK #13-14

13. Does the VR portion of the State Plan describe how the State VR agency will coordinate with local educational agencies in providing or arranging for the provision of pre-employment transition services to students with disabilities who are eligible or potentially eligible for VR services and in need of such services?
14. Does the VR portion of the State Plan describe required pre-employment transition services activities and authorized pre-employment transition activities?



## IN REVIEWING THE PLAN PETS, ASK #15

15. Does the VR portion of the State Plan describe how the local offices of the State VR agency carry out specified responsibilities, including working with local workforce development boards, one-stop centers, employers, and schools?



## V. SUBMINIMUM WAGES

- ▶ Review of Individuals in Extended Employment and Other Employment Under Fair Labor Standards Act Special Certificates
- ▶ Limitations on the Use of Subminimum Wages



# REVIEWS OF PEOPLE WHO RECEIVE A SUBMINIMUM WAGES

Title IV of WIOA increases the frequency of reviews that the VR agencies must conduct when individuals with disabilities, who have been served by the VR program, obtain subminimum wage employment or extended employment (i.e., work in a non-integrated or sheltered setting for an organization that provides compensation in accordance with the Fair Labor Standards Act.)



# IN REVIEWING THE PLAN SUBMINIMUM WAGE PROVISION: ASK #16

16. Does the VR services portion of the State Plan update the frequency of reviews that the State VR agency must conduct when individuals with disabilities, who have been served by the VR program, obtain subminimum wage employment or extended employment (i.e., work in a non-integrated or sheltered setting for an organization that provides compensation in accordance with the Fair Labor Standards Act)?

# LIMITATIONS ON THE USE OF SUBMINIMUM WAGES

- ▶ Section 511 of Title IV in WIOA imposes limitations on employers who hold special wage certificates under the Fair Labor Standards Act (FLSA) that must be satisfied before the employers may hire youth with disabilities at subminimum wage or continue to employ individuals with disabilities of any age at subminimum wage.
- ▶ Section 511 also establishes the roles and responsibilities of the VR agencies and State and local educational agencies in assisting individuals with disabilities, including youth with disabilities, who are considering employment, or who are already employed at a subminimum wage, to maximize opportunities to achieve competitive integrated employment through services provided by the State VR agency and the local educational agencies.
- ▶ Section 511 takes effect on July 22, 2016.



# LIMITATIONS ON THE USE OF SUBMINIMUM WAGES (CONTINUED)

- ▶ Section 511 requires the State VR agency, in consultation with the State educational agency, to develop a coordinated process, or use an existing process, for providing youth with disabilities documentation that demonstrates the completion of the various actions required by Section 511.
- ▶ Provide, at certain prescribed intervals (i.e., every six months for the first year of the individual's subminimum wage employment and annually thereafter for the duration of such employment), career counseling and information and referral services, designed to promote opportunities for competitive integrated employment, to individuals with disabilities, regardless of age, who are known to be employed at a subminimum wage level for the duration of such employment; and
- ▶ In consultation with the state educational agency, to develop a, or utilize an existing, process to document completion of required activities under this part by a youth with a disability.



# LIMITATIONS ON THE USE OF SUBMINIMUM WAGES (CONTINUED)

- ▶ Other relevant statutory provisions include:
  - ▶ Section 511(a) regarding the actions that youth must complete prior to beginning subminimum wage employment and
  - ▶ Section 511(c) regarding the actions that individuals with disabilities of any age must complete in order to continue employment at subminimum wage.
- ▶ Section 511(e)(2)(B) permits State VR agencies, along with the Department of Labor, to review individual documentation held by entities holding special wage certificates under the FLSA to ensure the required documentation is maintained for youth and adults with disabilities who are employed at the subminimum wage level.



# IN REVIEWING THE PLAN SUBMINIMUM WAGE PROVISION: ASK #17-19

17. Does the VR services portion of the State Plan specify the roles and responsibilities of the State VR agency regarding implementation of Section 511 (Limitations on the Use of Subminimum Wage), including the provision of career counseling and information and referral?
18. Does the VR services portion of the State Plan include a description of a new or existing process to document the completion of the various actions that must be taken by a youth with a disability under Section 511 (Limitations on the Use of Subminimum Wage)?
19. Does the VR services portion of the State Plan describe the process for reviewing individual documentation held by entities holding special wage certificates under the Fair Labor Standards Act (FLSA) to ensure that the required documentation is maintained for individuals with disabilities, including youth with disabilities, who are employed at the subminimum wage level?



# VI. STATE SUPPORTED EMPLOYMENT PROGRAM

Title IV of WIOA:

- ▶ Requires each State to reserve and use 50 percent of its allotment under the Supported Employment program to provide supported employment services, including extended services, to youth with the most significant disabilities. Extended services are ongoing support services needed to support and maintain an individual with a most significant disability in supported employment;
- ▶ Includes other relevant statutory provisions that highlight youth with the most significant disabilities as eligible for supported employment services, with extended services not to exceed 4 years.
- ▶ Revises the definition of “supported employment services” to mean those on-going supports provided for a period of time not to exceed 24 months.



# IN REVIEWING THE PLAN STATE SUPPORTED EMPLOYMENT PROGRAM, ASK #20-21

20. Does the VR portion of the State Plan describe the State's goals and priorities for funds received for the provision of supported employment services?
  
21. Does the VR portion of the State Plan describe the activities to be conducted, with funds reserved for youth with the most significant disabilities, including the provision of extended services needed to support and maintain an individual in supported employment for a period not to exceed 4 years?



# VII. COOPERATIVE AGREEMENTS AND COORDINATION

Title IV of WIOA requires that the VR portion of the State Plan describe how the State VR agency will cooperate and coordinate with various entities and State agencies, including the:

- ▶ State educational agency for the provision of transition services and pre-employment transition services;
- ▶ State agency responsible for administering the State Medicaid program;
- ▶ State agency with primary responsibility for providing services and supports for individuals with intellectual and/or developmental disabilities;
- ▶ The State agency responsible for providing mental health services;
- ▶ Lead agency responsible for administering the Assistive Technology programs;
- ▶ State agencies functioning as Employment Networks under the Ticket to Work and Self-Sufficiency program;
- ▶ Agencies and programs that are not carrying out activities through the statewide workforce development system; and
- ▶ Employers who can provide and/or identify competitive integrated employment and career exploration opportunities.



## VII. COOPERATIVE AGREEMENTS AND COORDINATION (CONTINUED)

Title IV of WIOA adds a new section that makes clear that nothing in the Act is to be construed as reducing the responsibility of the local educational agencies or any other agencies under IDEA to provide or pay for any transition services that are also considered to be special education or related services necessary for providing a free appropriate public education to students with disabilities.



# IN REVIEWING THE PLAN COOPERATIVE AGREEMENTS AND COORDINATION: ASK #22

22. Does the VR portion of the State Plan describe how the State VR agency will cooperate and coordinate with various entities and State agencies, including the:
- ▶ State educational agency, including the provision of transition services and pre-employment transition services?
  - ▶ State agency responsible for administering the State Medicaid program?
  - ▶ State agency with primary responsibility for providing services and supports for individuals with intellectual and/or developmental disabilities?
  - ▶ The State agency responsible for providing mental health services?
  - ▶ Lead agency responsible for administering the Assistive Technology programs;
  - ▶ State agencies functioning as Employment Networks under the Ticket to Work and Self-Sufficiency program?
  - ▶ Agencies and programs that are not carrying out activities through the statewide workforce development system?
  - ▶ Employers who can provide and/or identify competitive integrated employment and career exploration opportunities?



# IN REVIEWING THE PLAN, ASK #23

23. Does the VR portion of the State Plan make it clear that nothing in the Act is to be construed as reducing the responsibility of the local educational agencies or any other agencies under IDEA to provide or pay for any transition services that are also considered to be special education or related services necessary for providing a free appropriate public education to students with disabilities?



## VIII. ORDER OF SELECTION

Title IV of WIOA permits State VR agencies to serve eligible individuals who require specific services or equipment to maintain employment, regardless of whether they are currently receiving VR services. The State VR agency may serve these individuals regardless of any order of selection the State has established.



# IN REVIEWING THE PLAN ORDER OF SELECTION: ASK #24

24. Does the VR portion of the State Plan describe:

- ▶ The order to be followed in selecting eligible individuals to be provided VR services?
- ▶ The justification for the order?
- ▶ The service and outcome goals?
- ▶ The time within which these goals may be achieved for individuals in each priority category within the order?
- ▶ How individuals with the most significant disabilities are selected for services before all other individuals with disabilities?
- ▶ If the State VR agency has elected to serve eligible individuals, regardless of any established order of selection, who require specific services or equipment to maintain employment?



# LINKS TO CITATIONS AND POWERPOINT ON TITLE I OF WIOA

- ▶ For a summary of Title IV with specific citations for each of the items on the following slide deck, please click [here](#)
- ▶ Additional resources:
  - ▶ For more information about Title I of WIOA, please see [\*Reviewing Your State's WIOA Unified or Combined State Plan from a Disability Perspective: WIOA Title I\*](#)
    - ▶ For specific citations for each of the items on the slide deck on Title IV, click [here](#).
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