



New Restrictions on Subminimum Wage Go Into Effect Today – July 22, 2016!

As a result of the Workforce Innovation and Opportunity Act (WIOA), new restrictions on subminimum wage go into effect today, Friday July 22nd. The information below outlines these new requirements. Given APSE’s long-standing call for phasing out subminimum wage, APSE is pleased to see efforts to limit its use. It is critically important for APSE members and other advocates to be aware of these new requirements, and ensure they are fully enforced in a way that does not result simply in a “checklist” approach so that an individual can be paid subminimum wage. They should be used instead as stated in WIOA to “ensure that individuals with disabilities, especially youth with disabilities, have a meaningful opportunity to prepare for, obtain, maintain, advance in, or regain competitive integrated employment, including supported or customized employment.” Simply put, these new requirements under Section 511 of WIOA, should be used to divert young people from subminimum wage employment, and move individuals from subminimum wage jobs into competitive integrated employment. APSE will keep its members posted on implementation of these new requirements, with information on ensuring full enforcement of Section 511, and leveraging it to make competitive integrated employment a reality for all.

For Youth With Disabilities Prior to Placement in Subminimum Wage

Starting today, before a youth with a disability who is 24 or under starts subminimum wage employment, they must:

1. Receive either pre-employment transition services from their public vocational rehabilitation (VR) agency or transition services under IDEA from their school.
2. Be determined ineligible for VR services, or be accepted for VR services and be unsuccessful in achieving an employment outcome after a reasonable period of time. A “reasonable period of time”, is the expected time for the services identified in the individualized plan for employment (IPE) to be completed. For an individual in supported employment, this is up to 24 months, but can be extended.
3. Receive career counseling, and information and referrals from the VR agency to programs and other resources in the local area that offer employment-related services designed to help the youth attain competitive integrated employment. This must be in a manner that facilitates informed choice and independent decision-making by the youth.

Prior to employing a youth 24 or under at subminimum wage, a holder of a special wage certificate must review written documentation to ensure these steps have been followed, and keep a copy of this documentation on file.

No Contracting By Schools to Pay Youth Subminimum Wage

Effective today, schools may no longer contract or have other arrangements with holders of special wage certificates in order to pay a youth a disability subminimum wage.

For Individuals Currently Earning Subminimum Wage

Effective today, if an individual who is currently earning subminimum wage “is known” to public VR, 6 months after beginning employment at subminimum wage and on an annual basis thereafter, they must:

1. Receive career counseling and referral to other programs and resources to assist in pursuing competitive integrated employment, under similar parameters as requirement # 3 above for youth with disabilities.
2. Be informed about the availability of self-advocacy, self-determination and peer mentoring training opportunities available in the local area, that are not provided by the entity that employs the individual at subminimum wage.

These required steps for those currently earning subminimum wage may be provided directly by VR or by a contractor hired by VR. The contractor cannot be a holder of a special wage certificate.

How does an individual currently earning subminimum wage become “known” to public VR?

An individual with a disability currently earning subminimum wage becomes “known” to VR, through involvement with VR, self-referral, or referral by another agency. There is no requirement under WIOA that the individual previously received or is currently receiving VR services.

What are the documentation requirements under Section 511?

The WIOA regulations contain extensive documentation requirements for VR agencies and schools to comply with Section 511. Copies of all documentation must be made available and fully explained to individuals and their family or guardian (if applicable).