



## **Formal Interagency Agreement for Coordination of Pre-Employment Transition Services and Transition Services under Rehabilitation Act of 1973, as amended by WIOA and the Individuals with Disabilities Education Act (IDEA)**

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**References:**

Both the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act, as amended by WIOA (Rehabilitation Act), require SEAs and VR agencies to plan and coordinate transition services, as well as pre-employment transition services for students with disabilities through a formal interagency agreement. See [Section 612\(a\)\(12\)](#) of the IDEA and [Section 101\(a\)\(11\)\(D\) of the Rehabilitation Act](#); Sections [113](#) and [511](#) of the Rehabilitation Act, and the [Final Regulations: State Vocational Rehabilitation Services Program; State Supported Employment Services Program; Limitations on Use of Subminimum Wage](#)

**Purpose of the Agreement:**

- To facilitate and coordinate the smooth transition of students with disabilities from school to post-school activities, including the receipt of pre-employment transition services, transition services and other VR services.
- To serve as a mechanism for VR agencies, State educational agencies (SEAs) and, as appropriate, local educational agencies (LEAs) to clearly specify the **plans, policies and procedures for coordinating services to facilitate the transition of students, including at a minimum:**
  - Pre-employment transition services;
  - Consultation and technical assistance to assist educational agencies in planning for the transition of students; (*Rehabilitation Act*)
  - Transition planning by vocational rehabilitation and educational personnel that facilitates the development and implementation of a student's individualized education program (IEP); (*Rehabilitation Act, IDEA*)
  - Roles and responsibilities, including financial and programmatic responsibilities of each agency to ensure FAPE;
  - Outreach to and identification of students with disabilities in need of transition services and pre-employment transition services (*Rehabilitation Act*), including a process and responsibilities of LEAs in facilitating referrals of students with disabilities to VR; (*IDEA*)
  - Coordination to satisfy the documentation requirements set forth in section 511 of the Rehabilitation Act with regard to students with disabilities who are seeking subminimum wage employment; (*Rehabilitation Act*)
  - Conditions, terms and procedures for reimbursement to LEAs by other agencies; (*IDEA*)
  - Procedures for resolving interagency disputes under the agreement, including procedures for LEAs to initiate the process; (*IDEA*) and an
  - Assurance that neither the SEA nor the LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of operating a program under which a youth with a disability is engaged in work at a subminimum wage; (*Rehabilitation Act*)

**Additional Considerations:**

- Before a 14(c) “entity” may begin compensating a youth with a disability at subminimum wage, the youth must complete certain service-related activities and produce documentation showing completion of those activities. For these students with disabilities, the SEA agreement should describe the procedures to document the receipt, as applicable, of pre-employment transition services under the VR program; or transition services under IDEA. Additionally, a youth with a disability is required to apply for the VR program; therefore, the LEA should consider referring a student with a disability known to be seeking subminimum wage employment to the VR program.
- The formal interagency agreement between VR, the SEA, and as appropriate, LEAs may include criteria for determining and assigning the **financial roles and responsibilities** of each agency for the provision of pre-employment transition services and transition services to students with disabilities. The criteria may include:
  - Purpose of the service;
  - Customary service; and
  - Eligibility for services.

VR, SEA and LEA personnel should discuss at the State level whether the purpose of the service is related to an employment outcome or education attainment; whether the service is customarily provided by the school or VR program; and if the student is eligible for transition services under IDEA, or services, including transition services and pre-employment transition services, under the VR program, which is authorized to provide services to students who are individuals with disabilities under section 504 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA).

- The formal interagency agreement may serve as a reference document for staff from schools and VR agencies, students, parents and other stakeholders to guide the transition planning process at the State and local levels.
- Nothing under title I of the Rehabilitation Act shall be construed as reducing a LEA’s or any other agency’s obligation under the IDEA to provide or pay for transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education (FAPE) to children with disabilities.
- Describe how professional development, training and technical assistance will be provided by the State agencies to ensure that teachers, administrators and VR agency staff are fully informed of their responsibilities.

**Content and questions to ask for each required part of the agreement:**

(Designation is made as to which Act includes the requirement)

**I. Consultation and Technical Assistance:** to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including pre-employment transition services. Consultation and technical assistance may be provided through alternative means, such as conference calls and video conferences. **(Rehabilitation Act)**

- How will the VR agency and SEA collaborate to provide consultation and technical assistance to ensure providers of Pre-ETS and transition services understand their roles and responsibilities?
- Does the agreement identify for whom the agency is providing consultation and technical assistance?
- What types of activities does the VR agency provide to the educational agency as consultation and technical assistance?
- Does the agreement describe the methods that the VR agency can use to provide consultation and technical assistance to education officials including through alternative means, such as conference calls and video conferences?

**II. Transition Planning** by VR and educational agency personnel that facilitates completion of Individualized Education Programs (IEPs). **(IDEA/Rehabilitation Act)**

- How will education and VR work together in the facilitation and development of the IEP and IPE?
- How is VR's role defined in the facilitation and development of the IEP?
- How are interagency planning, coordination and provision of pre-employment transition services and IDEA services between VR and education described?
- Does the agreement address joint/cross-training opportunities? If so, describe the opportunities planned and provided.
- Is there coordination with non-educational agencies for out-of-school youth? If so, describe the coordination.

**III. Roles and Responsibilities, along with financial responsibilities** of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services and pre-employment transition services. **(IDEA/Rehabilitation Act)**

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- What services will be provided by each agency?
- Who pays for services identified?
- What criteria have been used to determine who is responsible to pay for a similar service that both entities can provide under their respective laws?
- Does the agreement specify the procedures to document the coordination between VR agencies and educational agency personnel, as well as the receipt of services for those youth age 24 or younger who are seeking subminimum wage in accordance with requirements under section 511 of the Rehabilitation Act, as added by WIOA?
- Does the agreement include clearly articulated roles and responsibilities for the provision of transition services and pre-employment transition services required prior to a student seeking subminimum wage?
- What criteria should be used in delineating roles and responsibilities? The final regulations for the VR program included the following criteria that agencies may use when determining roles and responsibilities:

### 1. The purpose of the service

Is it related more to an employment outcome or education (i.e., is it considered a special education or related service (e.g., rehabilitation counseling that is necessary for the provision of a free appropriate public education)?

Section 101(c) of WIOA 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.”

### 2. Customary Services

Is the service one that the school customarily provides under IDEA part B?

One example used in the proposed regulations is in the provision of job exploration counseling. It states:” If the school ordinarily provides job exploration counseling or work experiences to its eligible students with disabilities, the mere fact that those services are now authorized under the [Rehabilitation] Act as pre-employment transition services does not mean the school should cease providing them and refer those students to the VR program.”

### 3. Eligibility

Is the student with a disability eligible for transition services under IDEA?

Because the definition of a “student with a disability,” for the VR program includes an individual with a disability for purposes of section 504 of the Rehabilitation Act, it is broader than the definition under IDEA. VR agencies are authorized to provide pre-employment transition services and transition services to this broader population of students with disabilities than local educational agencies are authorized to provide under IDEA. Since the VR program may serve students with disabilities, including those individuals with a disability for purposes of section 504 of the Rehabilitation Act, it is possible that these students may not have an IEP under IDEA, and therefore would not be eligible for or receiving special education or related services under IDEA.

***IV. Procedures for outreach to and identification of students with disabilities in need of transition services and pre-employment transition services, including invitation to attend IEP meetings. (IDEA/Rehabilitation Act)***

- How does the agency conduct outreach and for whom?

Outreach should occur as early as possible and **must** include at a minimum:

1. a description of the purpose of the VR program;
2. eligibility requirements;
3. application procedures; and
4. the scope of services that may be provided.

- Attendance at IEP and transition planning meetings, career fairs, back to school nights, group orientations, transition fairs, and presentations are some examples of allowable outreach activities.

- Identification and outreach to all students with disabilities to make available the five required pre-employment transition services.

- Outreach activities are not exclusive to students with disabilities in special education, but should include those students with disabilities for purposes of section 504 of the Rehabilitation Act; students with disabilities receiving school psychological, health, nursing or social work services; and students with disabilities enrolled in an educational program and not in receipt of disability- related services from the educational program. VR agencies may also outreach to youth with disabilities who have dropped out of an educational program or students who are at risk of dropping out of high school.

- What is the process and who's responsible for the LEA referrals of students to VR for pre-employment transition services and transition services?

**V. Coordination responsibilities of each agency that promote the coordination, timely and appropriate delivery of transition services (IDEA).**

- Do State and local policies promote interagency coordination and timely delivery of transition services under IDEA and the *Rehabilitation Act* and the pre-employment services under the *Rehabilitation Act*?
- What required elements must be addressed in agreements between LEAs and VR if applicable?
- If your State uses local agreements, how will these local agreements be crafted to ensure they are consistent with the SEA agreement?
- Is the purchase and use of assistive technology devices and services included?

**VI. Coordination of transition services, pre-employment transition services and documentation requirements set forth in 34 CFR part 397 with regard to students and youth with disabilities who are seeking subminimum wage employment. (*Rehabilitation Act*)**

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**VII. Assurance that, in accordance with 34 CFR 397.31, neither the SEA nor the LEA will enter into a contract or other arrangement with an entity, as defined in 34 CFR 397.5(d), for the purpose of operating a program under which a youth with a disability is engaged in work compensated at a subminimum wage. (*Rehabilitation Act*)**

Criteria related to Subminimum Wage requirements in Section 511 of Rehabilitation Act:

- Does the agreement describe how the VR agency, in consultation with the SEA, will develop a process, or utilize an existing process, to document the completion of the required activities under Section 511 of the Rehabilitation Act, as amended, for youth who are age 24 or younger and seeking subminimum wage employment including:

- a) Services provided by the VR agency, including:
  - i. Pre-employment transition services; and
  - ii. Career counseling, and information and referral.

- b) Transition services provided by an LEA under IDEA
  - What is the process for the LEA to provide the VR agency with documentation of the completion of transition services or pre-employment transition services for students with disabilities?
  - What is the process for the VR agency to provide documentation of the provision of the above services within a reasonable period of time, but not to exceed 45 days after the completion of the services, or 90 days if a longer period of time is needed due to extenuating circumstances?

**VIII. Procedures for resolving interagency disputes, including procedures for LEAs to initiate the process to receive reimbursement or regarding implementation of the agreement. (IDEA)**

- Is a process in place for resolving interagency disputes regarding implementation of the agreement?
- Are procedures included for LEAs to initiate disputes, including a mechanism to secure reimbursement from other agencies and the implementation of the agreement?

**Last but not least:**

The agreement should:

- Identify the parties included in the agreement and whether or not local educational agencies are included;
- Be signed by the authorized officials of all parties identified in the agreement;
- Be dated; and
- Be reviewed and updated on a regular cycle, if not annually.

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