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November 2024

TO: BOCES District Superintendents
School District Superintendents
Superintendents of Special Act School Districts
Superintendents of State-Operated Schools
Superintendents of State-Supported Schools
School Principals
Charter School Leaders
Administrators of Nonpublic Schools with Approved Special Education Programs
Preschool Providers of Special Education Programs and Services
Special Education Directors
Directors of Pupil Personnel Services
School District Business Officers
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Organizations, Parents, and Individuals Interested with Special Education

FROM: Ceylane Meyers-Ruff *Ceylane Meyers-Ruff*
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SUBJECT: School District Roles and Responsibilities as Established by Section 511 of the Workforce Innovation and Opportunity Act in Assisting Students with Disabilities to Maximize Opportunities to Achieve Competitive Integrated Employment

The purpose of this memorandum is to remind school districts of the requirements and limitations under the [Workforce Innovation and Opportunity Act \(WIOA\)](#), and its associated federal regulations, that impact students with disabilities' services as they transition from school to adult life.

Under section 511 of WIOA, schools are prohibited from entering into contracts or agreements 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 where a student with a disability is engaged in work at a subminimum wage. However, schools are not prohibited from contracting with an entity holding a special wage certificate for the purpose of operating a program in which the student with a disability is paid *at or above* minimum wage or to provide other services for students with disabilities, such as job coaching and vocational assessments. Prior to entering into such a contract, a school district must ensure that the student will be paid at least minimum wage.

As part of the transition from school to employment, students should earn at least a minimum wage and be employed in integrated settings working alongside non-disabled co-workers. However, if competitive integrated employment is not an option, the requirements pursuant to section 511 of WIOA, and outlined in the [Joint Agreement for the Coordination of Transition Services between the New York State Education Department \("NYSED"\) Adult Career and Continuing Education Services– Vocational Rehabilitation \("ACCES-VR"\) and Office of Special Education \("OSE"\)](#), should be followed. ACCES-VR and school districts should be working cooperatively to ensure that students

participate in the required services and obtain the proper documentation to maintain or seek subminimum wage employment, including:

- Receipt of pre-employment transition services (Pre-ETS) and/or transition services provided by each;
- Record of eligibility or ineligibility for vocational rehabilitation (VR) services;
- Record of Individualized Plan for Employment and case closure; and
- Record of career counseling and information and referral services.

School officials are responsible for providing documentation of the completion of appropriate transition services under the Individuals with Disabilities Education Act (IDEA), to ACCES-VR consistent with the confidentiality requirements of the Family Educational Rights and Privacy Act. ACCES-VR is required to provide the student with documentation of completion of Pre-ETS and other appropriate services under the VR program. The student with a disability must obtain this documentation prior to starting a job at subminimum wage with an employer who holds a section 14(c) certificate under the Fair Labor Standards Act (FLSA). The [*Fact Sheet #39H: The Workforce Innovation and Opportunity Act and Limitations on Payment of Subminimum Wages under Section 14\(c\) of the Fair Labor Standards Act*](#) provides general information concerning the impact of the WIOA limitations on the payment of subminimum wages to workers with disabilities under section 14(c) of the FLSA.

Staff from [ACCES-VR](#) are available to provide technical assistance and consultation to school district personnel about the regulatory requirements of Section 511 regarding students seeking or continuing subminimum wage employment.