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February 7, 2017

TO: Chief School Administrators  
Directors of Special Education  
Charter School and Renaissance School Project Leads

FROM: John Worthington, Director  
Office of Special Education Policy and Procedure  
Lorelei Drew-Nevola, Director  
Office of Special Education Professional Development

SUBJECT: Information on the Workforce Innovation and Opportunity Act

The following information regarding the federal “Workforce Innovation and Opportunity Act” (WIOA) and its associated federal regulations is designed to assist school staff in understanding how this law impacts services for students with disabilities as they transition from school to adult life.

While WIOA governs many aspects of our federal and state system of workforce development (see the U.S. Department of Education’s [WIOA resources](#) for additional information), this memo focuses on two specific sections of the law that impact schools and students with disabilities: Section 113, the provision of Pre-Employment Transitions Services, and Section 511, limitations on the use of subminimum wage.

**Pre-Employment Transitions Services (Pre-ETS)** – Under Section 113 of WIOA, each state is required to provide Pre-ETS to eligible students with disabilities. In New Jersey, the state Department of Labor and Workforce Development, Division of Vocational Rehabilitation Services (DVRS), and the state Department of Human Services, Commission for the Blind and Visually Impaired (CBVI) are the agencies responsible for providing and arranging for the provision of Pre-ETS to eligible students with disabilities. These services can be provided in a group or on an individual basis. Students in New Jersey who may receive Pre-ETS include those aged 14 through 21 who are eligible for special education under Individuals with Disabilities Education Act (IDEA) and/or are receiving accommodations under Section 504 of the Rehabilitation Act of 1973.

While a variety of services may be provided to students through WIOA, the Pre-ETS that must be offered to all eligible students, based on their individual needs, include the following:

- Job exploration counseling;
- Work-based learning experiences that may include in-school or after-school opportunities or experience outside the traditional school setting (including internships) that are provided in a competitive integrated employment environment with appropriate supports and services to the maximum extent possible;

- Counseling about opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- Workplace readiness training to develop social skills and independent living skills; and
- Instruction in self-advocacy, which may include peer mentoring.

To receive Pre-ETS, students with disabilities or those receiving accommodations under Section 504 of the Rehabilitation Act do not need to apply to, or be determined eligible for DVRS or CBVI; however, additional DVRS or CBVI services (e.g., supported employment and job coaching) may only be available to a student after applying and being determined eligible for DVRS or CBVI. To learn more about how students can receive Pre-ETS, please contact the local office of DVRS using this online [directory of local DVRS offices](#). For students who are blind or visually impaired, contact Amanda Gerson, Coordinator of Vocational Rehabilitation and Transition Services, at (973) 648-3660 or [Amanda.Gerson@dhs.state.nj.us](mailto:Amanda.Gerson@dhs.state.nj.us), or Eva Scott, Director of Blindness Education at CBVI, at (973) 648-4300 or [Eva.Scott@dhs.state.nj.us](mailto:Eva.Scott@dhs.state.nj.us).

Nothing contained in WIOA should be construed as a reduction in the responsibilities of a local education agency (LEA) to coordinate and to provide transition services as required under IDEA and *N.J.A.C. 6A:14*. The Pre-ETS that are provided by DVRS or CBVI to a student need to be coordinated with other transition services provided by the school district and others, since Pre-ETS is not meant to replace the transition services in a student's Individualized Education Program (IEP), but rather to enhance them. Each LEA needs to collaborate with DVRS and CBVI to ensure that the provision of Pre-ETS is complementary to the transition services being provided to each student age 14 and older with an IEP.

**Limitations on the Use of Subminimum Wage** – The other section of WIOA that could impact schools and students with disabilities is Section 511, which places limitations on the use of subminimum wage. As of July 22, 2016, WIOA prohibits LEAs from entering into a contract with an entity holding a special wage certificate under Section 14(c) of the Fair Labor Standards Act (often referred to as a Sheltered Workshop Certificate) for the purpose of operating a program under which a youth with a disability is engaged in work at a subminimum wage. For example, students with disabilities can no longer be placed by their school district in a local sheltered workshop to perform work and receive a subminimum wage. **Please note:** WIOA does allow LEAs to contract with entities that have a certificate under Section 14(c) of the Fair Labor Standards Act (e.g., agencies that operate sheltered workshops for adults with disabilities), to provide other services for students with disabilities, such as supported employment, job coaching and community-based vocational assessments, but not programs where work is performed by a student for subminimum wage. DVRS maintains an online directory of [approved community rehabilitation programs](#).

For information, resources and links regarding transition planning for students with disabilities, please refer to the [Transition from School to Adult Life webpage](#) on the New Jersey Department of Education website. Contact Bill Freeman at (609) 292-0362 or by email at [bill.freeman@doe.state.nj.us](mailto:bill.freeman@doe.state.nj.us) for questions or information about transition planning for students with disabilities.

JW/LDN/BF/dp

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