



SECTION 511 OF TITLE IV OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

RESTRICTIONS ON THE USE OF SUBMINIMUM WAGE

Section 511 is a new requirement for employers or agencies who hold special wage certificates, commonly known as I4(c) certificates, under the Fair Labor Standards Act (FLSA) (29 U.S.C. 214(c)). The purpose of Section 511 is to ensure that individuals with disabilities have access to information and services that will enable them to achieve competitive, integrated employment.

REQUIREMENTS OF SECTION 511 LAW

- Employers who hold special wage certificates, commonly known as I4(c) certificates, under the FLSA (29 U.S.C. 214(c)) must comply with the new requirements of the law before continuing to employ individuals with disabilities of any age or hiring a youth with disabilities at subminimum wage.
- Individuals being paid less than minimum wage are required to be reviewed by the Vocational Rehabilitation program within 6 months of receiving subminimum wages and then annually thereafter.
- Individuals 24 years old or younger must be referred to the Vocational Rehabilitation program before they can be paid less than minimum wage.
- Schools are restricted from entering into contracts with agencies that involve subminimum wages for employment services. However schools can enter into contracts with these same agencies for other services. While in school students cannot participate in subminimum wage activities.

VR'S ROLE WITH REVIEWS AND SECTION 511

The I4c Employer, according to the U.S. Department of Labor, is responsible to make sure reviews occur and documentation is maintained by the employer. The Vocational Rehabilitation Agency's role is to conduct the reviews, and provide the documentation of reviews to the employer.

This resource document is a product of the North Dakota Department of Human Services' Division of Vocational Rehabilitation. Questions pertaining to the information in this document can be directed to Robyn Throlson or Barb Burghart by calling 701-328-8927.

IMPACT FOR STUDENTS WITH DISABILITIES IN SECONDARY EDUCATION

School district personnel who are conducting student transition plans, in the secondary education setting, need to be aware that students cannot directly enter into subminimum wage employment.

LIMITATIONS ON USE OF SUBMINIMUM WAGE FOR STUDENT/YOUTH

A student/youth cannot start work in subminimum wage until the following conditions are met:

- Has received pre-employment transition services;
- Has been served or been determined ineligible by VR;
- Has been provided career counseling and information/referrals to other public programs that allow the experience of competitive, integrated employment.

Pre-employment transition services, as defined in 34 CRF §361.48, can start at age 14 and continue throughout an individual's school program. Required services include the following:

1. Job exploration counseling
2. Work-based learning experiences which may include in school or after school opportunities or experience outside the traditional school setting that is provided in an integrated environment
3. Counseling on opportunities for enrollment in comprehensive transition or post secondary educational programs at institutions of higher education
4. Workplace readiness training to develop social skills and independent living
5. Instruction in self-advocacy which may include peer mentoring

What happens when the student/youth is referred to VR and found eligible?

- Develop Individualized Plan for Employment
- Work towards achieving competitive, integrated employment for a reasonable period of time
- VR case is closed

OTHER REQUIREMENTS

- VR and Special Education will develop a process and form for documentation.
- Employers maintain documentation in their files.
- The U.S. Department of Labor/Wage and Hour Division is the enforcing agency on compliance with the Fair Labor Standards Act and Section 511. Their website is: <https://www.dol.gov/whd/workerswithdisabilities/>.
- Full implementation **July 22, 2016**.

Section 511 is a Law – Not a Program