

Idaho Division of Vocational Rehabilitation Subminimum Wage Policy Document



Policy Name: Subminimum Wage

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1.0 POLICY STATEMENT

The Idaho Division of Vocational Rehabilitation (IDVR) is committed to supporting individuals with disabilities, including those with the most significant disabilities, in achieving competitive integrated employment (CIE) when provided with appropriate supports and services. This policy affirms that individuals who pursue or engage in employment below minimum wage must first complete required services to ensure they have meaningful opportunities to explore, pursue, and, if applicable, maintain CIE. This policy outlines the requirements for students and youth, career counseling information and referral, documentation, and ongoing review associated with subminimum wage employment to ensure informed choice and compliance with applicable law.

2.0 LEGAL AUTHORITY:

[Rehabilitation Act Section 511](#)

[34 CFR § 397.1](#)

[34 CFR § 361.22](#)

[2016 WIOA Final Rules](#)

3.0 SCOPE/APPLICABILITY

This policy applies to qualified rehabilitation counselors (QRPs) employed by IDVR, any employee that provides Career Counseling (CC) and Information & Referral (I&R) to individuals who have exited the vocational rehabilitation (VR) program and are currently employed under a 14(c) certificate holder. This policy also applies to youth with disabilities seeking or employed in subminimum wage employment, and to adults with disabilities who choose subminimum wage employment.

4.0 DEFINITIONS

Career Counseling (CC) and Information & Referral (I&R): CC/I&R services are required under WIOA Section 511 for individuals with disabilities employed at subminimum wage to ensure they are aware of opportunities for competitive employment in their community. This service is aimed at providing information on VR services, resources to help overcome barriers to employment, and self-advocacy resources.

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Subminimum Wage Employment: Employment in which an individual is legally paid less than the federal or state minimum wage under specific federal exemptions, and only after required services, counseling, and documentation are completed to ensure informed choice and opportunities to pursue competitive integrated employment.

Youth with Disabilities: Individuals age 24 or younger, including students with disabilities, who have physical, mental, intellectual, or sensory impairments that substantially limit one or more major life activities, and who are subject to additional federal requirements when seeking or engaging in subminimum wage employment.

Student with a Disability: An individual age 14 through 21, who is enrolled in a secondary or postsecondary educational program and has a physical, mental, intellectual, or sensory impairment that substantially limits one or more major life activities. For purposes of WIOA Section 511, students with disabilities must receive pre-employment transition services, career counseling, and information & referral services before seeking or engaging in subminimum wage employment.

14(c) Certificate Holder: An employer authorized by the US Department of Labor's Wage and Hour Division to pay workers with disabilities below the federal minimum wage under Section 14(c) of the Fair Labor Standards Act, based on documented assessments of the worker's productivity relative to standard industry performance.

5.0 STANDARD

5.1 Youth with Disabilities: Federal regulations require that youth with disabilities may not begin subminimum wage employment until specific requirements are met:

5.1.1 Youth with disabilities must have access to VR services including VR transition services, IDEA transition services provided by the LEA, Pre-Employment Transition Services (Pre-ETS) if they are students with disabilities, and career counseling.

5.1.2 Prior to subminimum wage employment, youth with disabilities must:

5.1.2.1 Be determined ineligible for VR services due to the severity of the disability; or

5.1.2.2 Receive VR services and be unable to achieve a competitive integrated employment (CIE) outcome after a reasonable period of time.

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5.1.3 Before a youth with a disability can enter into subminimum wage employment, the youth must have received CC/I&R for Federal and State programs and other resources in the individual's geographic area that offer employment-related services and supports designed to enable the individual to explore, discover, experience and attain competitive integrated employment, including but not limited to:

5.1.3.1 CIE options;

5.1.3.2 Workplace supports and accommodations; and

5.1.3.3 The long-term impact of subminimum wage employment.

5.1.4 Ongoing reviews and counseling are required while the youth remains in subminimum wage employment

5.2 Adults with Disabilities: Adults entering subminimum wage employment may choose subminimum wage employment through informed choice.

5.2.1 Adults must be provided with CC/I&R prior to case closure.

5.2.2 Participation in subminimum wage employment must be voluntary and documented.

5.3 IDVR responsibilities: IDVR shall ensure compliance with all federal and state requirements related to subminimum wage employment.

5.3.1 Responsibilities include:

5.3.1.1 Providing CC/I&R when notified by the employer;

5.3.1.2 Ensuring informed choice for youth and adults;

5.3.1.3 Maintaining required documentation and service records;

5.3.1.4 Conducting required periodic reviews for individuals earning subminimum wage.

5.3.2 IDVR shall not delegate CC/I&R duties to entities holding a 14(c) wage certificate.

5.3.3 Once individuals seeking or working in subminimum wage employment complete all necessary requirements, IDVR will issue verification documentation to the individual and the employer holding a 14(c) certificate that permits the individual to begin or continue subminimum wage employment.

6.0 EXCEPTIONS

There are no exceptions to the subminimum wage policy.