

Interagency Agreement

Between the

Wisconsin Department of Public Instruction

And the

**Wisconsin Department of Workforce Development
Division of Vocational Rehabilitation**

Revised May, 2020

Introduction

This Interagency Memorandum of Agreement (MOA) between the Wisconsin Department of Workforce Development (DWD) Division of Vocational Rehabilitation (DVR) and the Wisconsin Department of Public Instruction (WI DPI) was created to clarify roles and help ensure both agencies meet all related federal standards under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA). Such requirements serve to outline a collaborative process that facilitates the transition of students with disabilities from school to competitive integrated employment. Both agencies are committed to the successful transition of students with disabilities as they move toward the achievement of their post-school employment goals. This agreement is consistent with roles and responsibilities in the interagency MOA between DVR, WI DPI, and the Wisconsin Department of Health Services (DHS), as well as the information in the Transition Action Guide (TAG). The TAG describes expectations students with disabilities and their families can have of the service systems overseen by each of the three state agencies when providing transition services. The TAG emphasizes that supports needed for students and young adults to become and remain employed in competitive integrated jobs should be provided and well-coordinated regardless of extent of disability.

Purpose

The purpose of this MOA is to fulfill certain mandates found in the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act to increase the percentage of students with disabilities transitioning from school to post-secondary education, job training, or employment. These two acts function together to specify requirements for the coordination and provision of transition services, pre-employment transition services (Pre-ETS), and other vocational rehabilitation (VR) services.

This MOA serves as a mechanism for DVR and WI DPI to document **policies and procedures** that VR and educational personnel must follow when coordinating services. This MOA outlines agreements and required activities related to facilitating the transition of students with disabilities from school to adult life, including:

- Roles and responsibilities, including the financial and programmatic responsibilities of each agency;
- Outreach to, and identification of, students with disabilities in need of transition services and pre-employment transition services (Pre-ETS);
- Provision of transition services and Pre-ETS;
- Consultation and technical assistance to assist local educational agencies (LEAs) in planning for the transition of students;

- Transition planning by VR and educational personnel that facilitates the development and implementation of a student's individualized education program (IEP) and individualized plan for employment (IPE);
- Generation and provision of documentation to students with disabilities who are seeking subminimum wage employment that meets requirements set forth in Section 511 of the Rehabilitation Act; and
- Assurance that neither WI DPI nor any LEA in Wisconsin 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 typically paid at a subminimum wage.

Authority and Scope

Both IDEA and the Rehabilitation Act require DVR and WI DPI to plan and coordinate transition services, including Pre-ETS, for students with disabilities through a formal interagency agreement. 20 U.S.C. § 1412(a)(12); 29 U.S.C. § 721(a)(11)(D).

Objectives

The following objectives are based on state and federal regulatory requirements for both DVR and WI DPI, which is the state educational agency (SEA) in Wisconsin:

- Providing consultation and technical assistance to assist LEAs in planning for the transition of students with disabilities from school to post-school activities, including VR services;
- Providing guidance to educational and VR personnel responsible for facilitating the transition planning process and the development and coordination of IEPs and IPEs;
- Providing information about each agency's roles and responsibilities, including financial responsibilities, and the State lead agencies and qualified personnel responsible for transition services;
- Developing and implementing procedures for outreach to and identification of students with disabilities in need of transitions services; and
- Describing the documentation requirements under Section 511 of the Rehabilitation Act for students with disabilities seeking subminimum wage employment.

Agreements

DVR and WI DPI will work collaboratively along with LEAs to ensure a coordinated approach to the transition of students with disabilities as required by the Rehabilitation Act.

LEAs maintain responsibility for providing transition services that facilitate the movement of students with disabilities from school to post-school activities, including education and training, employment, and independent living. DVR must collaborate with LEAs to ensure the provision of Pre-ETS, as defined in the Rehabilitation Act, that prepare students for competitive integrated employment.

WI DPI and DVR jointly agree that:

- For purposes of carrying out the activities agreed to in this MOA, “student with a disability” has a meaning consistent with the meaning of “individual with a disability” as defined in Section 504 of the Rehabilitation Act. To qualify as an individual with a disability under Section 504, a student must be determined to (1) have a physical or mental impairment that substantially limits one or more major life activities; (2) have a record of such an impairment; or (3) be regarded as having such an impairment. Therefore, it is possible that a student served by DVR may not have an IEP under IDEA, meaning they would not be eligible for or receive special education services from the LEA.
- Per IDEA, transition services and Pre-ETS are provided to students with disabilities, ages 14-21.
- LEAs are financially responsible for transition services in accordance with state and federal laws, regulations, and policies.
- DVR is financially responsible for providing VR services, including Pre-ETS, in accordance with state and federal laws, regulations, policies, and mandates, including the Rehabilitation Act.
- LEAs are responsible for primary planning and programmatic duties involved in the provision of transition services for students with disabilities.

Section 101(c) of the Rehabilitation Act states that "*Nothing in [Title I, Part A of this Act] shall be construed to reduce the obligation under [IDEA] of a local educational agency or any other agency to provide or pay for any transition services that are also considered to be special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities.*"

- LEAs are responsible for the coordination of educational programs, including transition planning, provision of transition services, and Pre-ETS that prepare students with disabilities to accomplish their post-school training and education, employment, and independent living goals.
- WI DPI and DVR will work with LEAs and other state agencies to ensure a coordinated approach to the provision of transition services, including Pre-ETS, in accordance a student’s IEP, IPE, identified needs, and any additional applicable service plan in place.
- WI DPI and DVR will provide consultation and technical assistance to assist LEAs in planning for the transition of students with disabilities from school to post-school

activities, including Pre-ETS. Consultation and technical assistance may be provided in person or through alternative means, such as email, webinars, conference calls, and video conferences.

- WI DPI and DVR will continue to work together to implement consistent policies and procedures for transition planning and services, including, but not limited to, student referral and access to VR services.
- When developing and coordinating services outlined in the IEP and IPE, the WI DPI will promote that the student and, as appropriate, the student's family, should serve as the primary source of information regarding needs, goals, and services provided.
- WI DPI and DVR support the agreement and practices outlined in the WI DPI/DVR/DHS MOA and the Transition Action Guide (TAG) and will coordinate the implementation of the practices through guidance and technical assistance provided at the LEA and DVR area office level.
- WI DPI and DVR will develop options for the coordination of documentation at the local level to satisfy the requirements set forth in Section 511 of the Rehabilitation Act regarding individuals with disabilities who are age 24 or younger and are seeking subminimum wage employment. Information can only be shared directly between LEA and DVR personnel with permission of the student and, if applicable, the student's parent or guardian.

Referrals/Applications of Students Applying to DVR (Regular Case Record)

High school students should refer themselves to DVR two years prior to high school exit, or earlier based on individual needs/situations.

DVR staff, the student, and the student's guardian will determine whether the provision of Pre-ETS is best provided through a potentially eligible DVR case record or a regular DVR case record. In either case, parent/guardian approval is needed and, if applicable, guardianship paperwork is obtained and attached to the case record in IRIS.

Students with disabilities are not exempt from any of the order of selection requirements for vocational rehabilitation services. A student with a disability who needs individualized VR services, in addition to pre-employment transition services, must apply and be determined eligible for the VR program and have an approved IPE.

Process for a student in need of a regular DVR case record:

Students can fill out a paper or on-line DVR Referral form

Receive information about DVR through a local DVR orientation session or a one-on-one meeting with a DVR staff person

Complete DVR application and eligibility process

Develop the IPE

Full array of VR services can be provided, including Pre-ETS

Potentially Eligible Students and Process (Potentially Eligible Case Record)

A potentially eligible (PE) student is an individual who meets the definition of a student with a disability **and** has not previously been determined eligible or ineligible for DVR. Provision of Pre-ETS for a PE student must end on the student's 22nd birthday or when the student is no longer enrolled in an education program.

PE cases do not follow the regular DVR application, eligibility, or IPE development process.

A PE student may only receive Pre-ETS, not the full array of DVR services, e.g., no transportation, systematic instruction, etc.

Examples of when to use the potentially eligible designation include, but not limited to:
When needed to expedite the provision of Pre-ETS, e.g., a workplace readiness class is beginning and a student wants to participate

When a student only needs Pre-ETS and does not want to formally apply for a regular DVR case record

When DVR has developed a specialized agreement with another entity to assist in the provision of Pre-ETS

The process for a student in need of a potentially eligible case record is as follows:

Potentially Eligible Guidance

Student completes the Potentially Eligible Referral form and returns it to DVR. This is currently a paper form entered into the IRIS case management system by DVR staff.

School staff can sign off on the PE form to verify disability status, or disability documentation can be submitted to DVR.

Application, eligibility, and IPE processes are not followed for PE students.

A student with a PE case record can only receive Pre-ETS plus auxiliary aids needed to support Pre-ETS.

Statewide SEA Commitments

WI DPI agrees to:

1. Mandate that LEAs implement special education requirements for transition planning services specified in IDEA as evidenced by the development and implementation of IEPs for students with identified needs.
2. Promote the practices outlined in the TAG by directing LEAs to identify students with disabilities, develop IEPs, share information about DVR with students who have IEPs and their families *at least two years before the student's anticipated graduation date*, and assist with referrals for DVR services when appropriate.
3. Designate WI DPI personnel to be responsible for providing technical assistance and consultation and developing statewide program strategies and procedures applicable to students with disabilities transitioning from school to post-school activities.
4. Coordinate a network of professionals focused on assisting LEAs with implementing effective transition planning, programs, and services.
5. Continue to support the Transition Improvement Grant (TIG) initiative, which provides effective, targeted, and low-cost professional development to Wisconsin youth, parents, educators, and all stakeholders in post-secondary transition to improve strategies that will positively affect the post-school outcomes of students with disabilities.

6. Provide technical assistance and consultation to VR personnel through formal and informal training, joint problem-solving, and exchange of information on policies and procedures.
7. Provide DVR with a list of Wisconsin secondary schools to encourage the identification of school district or school building contact personnel needed for collaboration with DVR.
8. Encourage educators, DVR staff, parents, and youth to participate in the Transition Advisory Council/County Community on Transition.
9. Cooperate with the DVR Statewide Transition Action and Resource Team (START) in their efforts to improve consistency and engagement in the transition process.
10. Share state-level data regarding transition services, post-secondary goals, post high school outcomes, and exit and environment data for students with disabilities.
11. Assist LEAs in networking with post-secondary education systems using the required summary of performance (SOP), with attached recent documentation of the student's disability to determine eligibility for services. This will assist students in making necessary connections with available accommodations and services provided by individual post-secondary institutions.
12. In accordance with 34 C.F.R. § 397.31, not enter into a contract or other arrangement with an entity, as defined in 34 C.F.R. § 397.5(d), to operate a program under which a youth with a disability is engaged in work compensated at a subminimum wage. WI DPI will provide written notification to LEAs that such contracts with outside agencies are not permissible under Section 511 of the Rehabilitation Act.

Statewide DVR Commitments

DVR agrees to:

1. Designate co-statewide transition coordinators to be responsible for overseeing the provision of technical assistance and consultation, and the development of statewide program strategies and procedures for students with disabilities.
2. Assign a DVR counselor as a liaison to each LEA in Wisconsin to provide technical assistance and consultation, develop collaborative approaches for student outreach and referral for VR services, and assist with transition planning that facilitates the completion of a student's IEP and the student's transition from school to post-school employment.
3. Provide technical assistance on VR to educational personnel through formal and informal training, joint problem-solving, and exchange of information on policies and procedures.
4. Collaborate with LEA personnel to ensure alignment of students' IEPs with IPEs.

5. Advise DVR staff, with parental consent, to attend IEP meetings to provide employment information, technical assistance, case consultation, and information on VR programs and referrals as needed.
6. Perform outreach activities that help inform LEAs, students with disabilities, and their families about the VR program, including the purpose of the program, VR eligibility requirements, referral and application procedures, and the scope of services that may be provided to eligible individuals.
7. Conduct outreach for students with disabilities who may benefit from VR services as early as appropriate during the transition planning process. DVR counselors will work to foster the referral of students with disabilities to VR services at least two years prior to graduation.
8. Collect relevant data about eligibility for VR services and track information about employment outcomes for youth with disabilities to improve collaboration efforts, VR services, and employment outcomes.
9. For students enrolled with DVR, complete the plan for employment within 90 days of eligibility and prior to the student leaving high school.
10. Support the DVR START in their efforts to improve consistency and engagement in the transition process.
11. Encourage educators, DVR staff, parents, and youth to participate in the Transition Advisory Council/County Community on Transition.
12. Support the TIG initiative, which provides effective, targeted, and low-cost professional development to Wisconsin youth, parents, educators, and all stakeholders in post-secondary transition to improve strategies that will positively affect the post-school outcomes of students with disabilities.
13. Provide Pre-ETS (ages 14-21), career counseling, and information and referral to individuals with disabilities who are age 24 or younger and are seeking subminimum wage employment as required by Section 511 of the Rehabilitation Act.

Documentation Requirements for Section 511/34 CFR 397

Under Section 511 of the Rehabilitation Act, any entity that holds a valid certificate pursuant to section 14(c) of the Fair Labor Standards Act of 1938 is prohibited from hiring any individual with a disability who is under age 24 to work for a subminimum wage, unless the individual has met and has received documentation from DVR of meeting all requirements outlined in the Rehabilitation Act:

- The individual has received Pre-ETS in accordance with the IEP and/or IPE.
- The individual has applied for DVR services with the result that:
 - The individual is ineligible for DVR services; or

- The individual is eligible for DVR services, has an approved IPE, has been unable to achieve an employment outcome in competitive, integrated employment after a reasonable period, and the VR case was closed unsuccessfully.
- The individual has been provided career counseling and information and referral services to federal and state programs to help the individual discover, experience, and attain competitive integrated employment and the counseling and information was not for employment at subminimum wage.

The WI DPI will provide LEAs with a list of transition services options consistent with the Pre-ETS categories mandated by the Rehabilitation Act to support LEAs in meeting their shared responsibility to provide Pre-ETS to students. In accordance with IDEA, LEAs are required to provide transition services to each student with an IEP based on their individual needs as determined through age-appropriate transition assessment and the IEP process. Transition services selected by the IEP team will be captured in the post-secondary transition plan portion of the IEP. The student, and/or the student's parent or guardian, will receive copies of the annual IEP, including the post-secondary transition plan (PTP), and may choose to share the IEP and/or PTP with DVR at any time. The LEA must provide an additional copy of the most recent IEP and PTP to the student or the student's parent or guardian upon request for up to one year following graduation or school exit.

A copy of documentation verifying provision of Pre-ETS to the student or youth must be provided within 45 days after the determination or completion of the required activity or services or within 10 days if the student refuses to participate in any DVR services. The WI DPI, in accordance with IDEA, mandates that an LEA obtain permission from the student or, if applicable, the student's parent or guardian, prior to sharing IEP or PTP documents verifying the provision of transition services, including Pre-ETS, with DVR. The student or the student's parent or guardian must be provided copies of the IEP and PTP within 30 days of the annual meeting, and are free to share that information as they see fit.

The documentation of completed services or activities from the LEA must include:

- The name of the student or youth;
- A description of the services or activity completed;
- The name of the provider of the service or activity;
- The date the service or activity was completed;
- Signature and date of the educational personnel documenting their completion of the service or activity;
- Signature and date of the educational personnel transmitting data to DVR with permission from the student or parent/guardian; and
- Date documentation was transmitted to DVR and transmission method used.

34 C.F.R. § 397.30(b)(1). Documentation should be provided to DVR as soon as possible upon completion, but no later than 30 calendar days after the completion of the required activities, or 60 calendar days if additional time is necessary due to extenuating circumstances.

If the educational agency is documenting the youth's refusal of services, the documentation must include:

- The name of the student;
- Description of and reason for the refusal;
- Signature of the student or, as applicable, the student's parent/guardian;
- Signature(s) and dates of the educational personnel documenting the refusal;
- Signature(s) and dates of the educational personnel transmitting documentation to DVR with permission from the student or parent/guardian; and
- Date documentation was transmitted to DVR and transmission method used.

34 C.F.R. § 397.30(b)(2). This documentation will be provided to DVR by the LEA (if permission is obtained from the student or the student's parent or guardian as required) or by the student or the student's parent or guardian within five calendar days of refusal. The LEA will retain a copy of all documentation provided to DVR consistent with the requirements of 2 C.F.R. § 200.333. 34 C.F.R. § 397.30(d).

DVR will provide documentation to the student or youth, including documentation of transition services provided by the LEA, as soon as possible upon completion, but no later than 45 calendar days after completion of these activities. An extension of up to 90 calendar days after service completion may be granted under certain circumstances.

If a student or youth with a disability or, as applicable, the student or youth's parent or guardian, refuses through informed choice to participate in the activities required by Section 511 or the implementing regulations in 34 C.F.R. Part 397, documentation must be provided by DVR. This documentation must at a minimum contain those details listed in 34 C.F.R. § 397.10(a)(2). DVR will provide this information to the student or youth within 10 calendar days of refusal to participate. 34 C.F.R. § 397.10(c)(2)(ii).

When transmitting documentation of the final determination or activity, DVR will provide a cover sheet itemizing the documents that have been provided to the student or youth. 34 C.F.R. § 397.10(c)(3).

DVR must retain copies of the documentation in a manner consistent with the requirements of 2 C.F.R. § 200.333. 34 C.F.R. § 397.10(a)(3).

Terms of the Agreement

The terms of this MOA between DVR and WI DPI shall begin upon signature by the authorized representative of each party and will remain in effect until it is either (1) replaced by a new agreement, (2) terminated upon mutual agreement, or (3) terminated upon a request in writing by either party.

Resolution of Conflicts

A. General procedures for intra- and interagency disputes:

For the resolution of disputes arising over issues addressed in this MOA, all parties will take appropriate steps and use methods as described herein. Attempts will be made to resolve the issue at the lowest level of disagreement. Informal resolution will be the first step in addressing any disagreements relative to this MOA. When an issue cannot be resolved at the lowest level, it should be referred to the next highest level as a formal dispute. Formal disputes under these procedures are to be submitted in writing at the appropriate local or state authority.

The materials presented will include:

- The regulation or requirement related to the dispute;
- The specific issue needing resolution;
- The prior steps taken to resolve the issue; and
- any additional information that may be relevant to the dispute.

Using the information presented, a good faith effort will be made to reach a mutually satisfactory solution. Efforts must be made at each level for resolution in a timely manner.

B. Conflict resolution between individual students and agencies identified in this MOA:

Individual students and their parents or legal guardians have the right to appeal decisions regarding eligibility, services, and other aspects of the IEP or IPE. In these situations, an appeal should be filed following LEA appeal procedures.

C. Resolution of state department intra-agency disputes:

This MOA recognizes that each agency has its own administrative mechanisms for the timely resolution of internal disputes. This MOA recognizes these procedures and permits each agency to resolve its own internal disputes.

D. Resolution of state department interagency disputes:

When a formal dispute arises between agencies regarding the terms of this MOA, the party seeking clarification shall use the following procedure for resolution:

1. The issue will be referred to the respective division administrator or their designees for resolution.
2. If unresolved by division administrators, the issue will be referred to the highest authorities within the agencies for resolution.
3. All necessary steps in the resolution under this section shall occur within 60 days from referral to division administrators. If acted on in good faith with just cause and through mutual consent, an extension may be granted.

Signatures

This agreement is effective immediately upon joint signature:

Department of Public Instruction

DocuSigned by:
Carolyn Stanford Taylor
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Carolyn Stanford Taylor
State Superintendent, Department of Public Instruction
Date 5/29/2020

DocuSigned by:
Barbara Van Haren
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Barbara Van Haren
Assistant Superintendent, Division for Learning Support
Date 5/29/2020

Department of Workforce Development

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Robert Cherry, Jr.
Deputy Secretary, Department of Workforce Development
Date 6/25/2020

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Delora Newton
Administrator, Division of Vocational Rehabilitation
Date 5/29/2020