

HOW SECTION 511 OF THE REHABILITATION ACT APPLIES TO SCHOOLS AND STUDENTS WITH DISABILITIES

February 29, 2016
3:00pm (CT)

**The audio for everyone is
muted until the session
starts**

The Workforce Innovation & Opportunity Act of 2014



Reauthorizes the Workforce Investment Act of 1998, including the Rehabilitation Act



We are familiar with Section 504

Section 504 of the Rehabilitation Act is a civil rights law that prohibits discrimination on the basis of disability. This law applies to public elementary and secondary schools, among other entities.

Intent of the Section 511 Law

- Individuals with disabilities, especially youth with disabilities, must be afforded a full opportunity to prepare for, obtain, maintain, advance in, or re-enter competitive integrated employment.
- Copy of law, Regs, and other Section 511 documents found at: Provider Resources tab at the WWW.DHS.SD.GOV/DRS/ website.



Key Statutorily Required Implementation Dates

- July 22, 2014 – Enactment
- January 18, 2015 – Notice of Proposed Rule Making
- January 22, 2016 – DOL, ED & HHS must publish Final Rules to implement WIOA (18 mos. after enactment)
- March 3, 2016 – Deadline for State Unified Plan
- July 22, 2016 - Provisions relating to subminimum wage for individuals with disabilities take effect

Definitions to Understand

- Student with a disability
- Youth with a disability
- Pre-employment Transition Services
- Competitive Integrated Employment
- Transition Services
- Employer
- Employee





- **Student with a Disability**
- Primarily ages 16 to 21 (NOT older than 21 years of age)
- Once in post secondary are not considered a student with a disability regardless of age
- Students on a 504 plan are eligible for VR services
- Exceptions based on state law and DOE implementation of IDEA
- PETS and VR involvement do not replace the responsibilities of the school districts

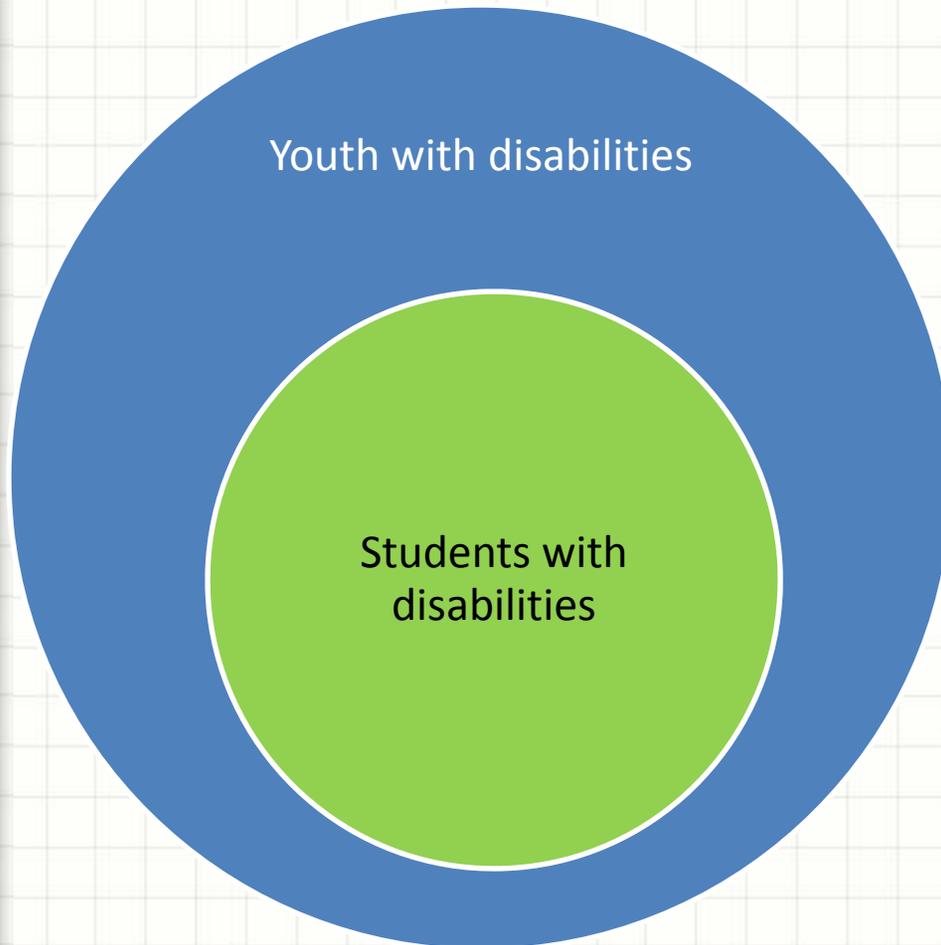
Youth with Disabilities

The term youth with a disability means an individual with a disability who:

- Is not younger than 14 years of age; and
- Is not older than 24 years of age.

Congress was very clear in the Reauthorization that youth with significant disabilities must be given every opportunity to receive the services necessary to ensure the maximum potential to achieve competitive integrated employment.

Youth and Students



Youth with Disability

- *is not younger than 14 years of age; and*
- *is not older than 24 years of age.*

Student with disability

- *student with a disability who is on an IEP with includes a transition plan.*
- *student in secondary school on a 504 Plan*



Pre-employment Transition Services

PETS must be provided in conjunction with local educational agencies and must include:

- ✓ Job Exploration Counseling;
- ✓ Work-based learning experiences in an integrated environment;
- ✓ Post-secondary education counseling;
- ✓ Workplace readiness training to develop social skills & independent living skills;
- ✓ Instruction in self-advocacy

Definitions



- **Competitive Integrated Employment**
 - full or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work,
 - and fully integrated with co-workers without disabilities,
 - opportunities for advancement are available similar to other employees without disabilities.

What is Integrated under WIOA?

- Both within the work unit and entire workplace, just interact with co-workers, customers, and vendors to the same extent as employees without disabilities in comparable positions.
- Interacting only with supervisor and CRP staff is insufficient



Transition Services

means a coordinated set of activities for a student or youth with a disability designed within an outcome oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

Employee

System	Terminology
School	Student
Community Support Provider	Person Served
Vocational Rehabilitation	Client
Section 511	Employee

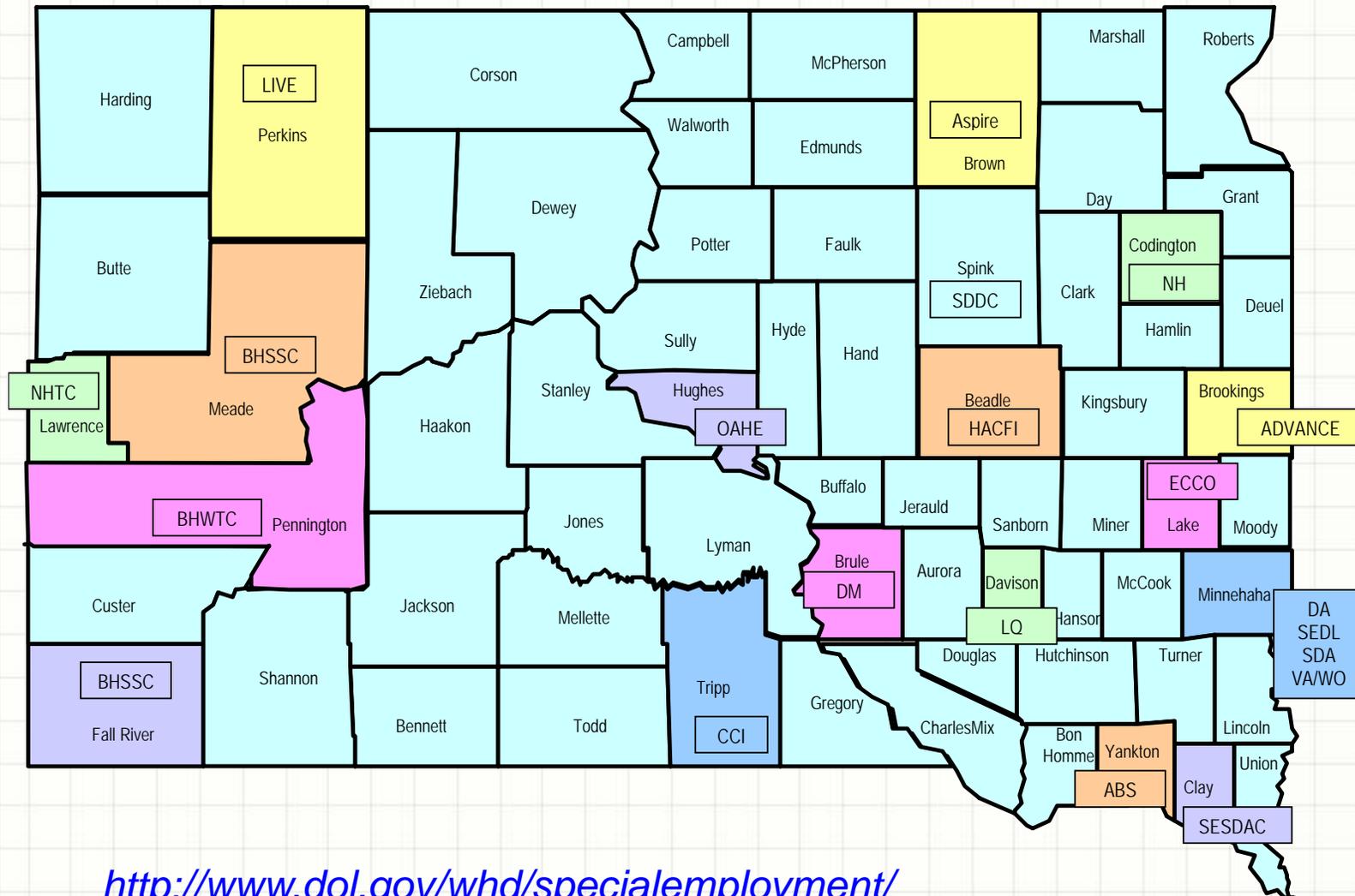
Employer

System	Terminology
School	Service Provider
Community Support Provider	Service Provider
Vocational Rehabilitation	Sheltered Workshop & Service Provider
Section 511	Employer

Requirements of 511 Law

- New requirements for employers who hold special wage certificates, commonly known as 14(c) certificates, under the FLSA (29 U.S.C. 214(c)). These new requirements must be satisfied before an employer hires a youth with disabilities at subminimum wage or continues to employ individuals with disabilities of any age at the subminimum wage level.
- Periodic reviews of employees paid less than minimum wage.
- New requirements for school districts restricting subminimum wage activities for students with disabilities.

Who are the 14c Employers



<http://www.dol.gov/whd/specialemployment/>

SECTION 511: Impact for Students with Disabilities in Secondary Education

School districts may not enter into a contract or make other arrangements with an subminimum wage employer for an individual who is age 24 or younger which the work is compensated at a subminimum wage.



SECTION 511: LIMITATIONS ON USE OF SUBMINIMUM WAGE FOR YOUTH

Youth cannot starting 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.



SECTION 511: LIMITATIONS ON USE OF SUBMINIMUM WAGE FOR YOUTH

If youth are already working in subminimum wage on July 22, 2016:

- If never accessed VR, should apply for VR Services;
- Be provided career counseling and information and referrals to other public programs that allow the experience of competitive, integrated employment; and
- Receive pre-employment transition services;

What happens when the Youth is Referred to VR

- Individual is found eligible and
 - Develops Plan for Employment
 - Works towards achieving competitive employment for a reasonable period of time
 - VR Case is closed
- Or Individual is found ineligible

And

Receives career counseling other than subminimum wage options and receives Information and Referral on other resources

SECTION 511: ALREADY RECEIVING SUBMINIMUM WAGE

- 1st six months, VR needs to Interview, assess, counseling guidance, I & R, and make referral if necessary.
- Repeated 2nd six months.
- Repeat annually there after.
- Individual/Family is to receive letter/results within 90 days.
- These reviews will be contracted out.
- Employers must maintain documentation

Section 511 Requirements by Age Group



Student

Youth

Adult

- Cannot do subminimum wage activities.
- Need to offer/provide Pre-Employment Transition Services. This must be documented.
- If subminimum wage may happen after completion of school then student must be referred to VR before completing school.

Before the youth can work at subminimum wage.

- Must have been referred to VR.
- Need to offer/provide Pre-Employment Transition Services. This must be documented.
- Employer must maintain documentation.

Would require initial and following reviews similar to adult.

- Can work at subminimum wage.
- Would require initial review within 6 months, again before 12 months and then annually.
- Employer must maintain documentation.

VR's Role with Reviews & Section 511

- 14c Employer is responsible to make sure reviews happen and documentation is maintained.
- The Vocational Rehabilitation Agency's role is to provide the reviews, documentation of reviews, provide individuals with disabilities employment information and basic career counseling.
- The US 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:
<http://www.dol.gov/whd/workerswithdisabilities/workers.htm>

Documentation of PETS

DHS-VR-359 - 9/2015

Documentation for Subminimum wage

Student Name: [Click here to enter text.](#)

School: [Click here to enter text.](#)

Subminimum Wage Agency: [Click here to enter text.](#)

Form completed by: [Click here to enter text.](#)

Date form is completed: [Click here to enter text.](#)

Effective 7/22/2016, pre-employment transition services that were made available to a youth with disabilities must be documented before completion of school and/or before starting employment at less than minimum wage.

Complete the form below documenting the date, description of services and opportunity for each of the following activities.

- (i) **Job exploration counseling;**
[Click here to enter text.](#)
- (ii) **Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;**
[Click here to enter text.](#)
- (iii) **Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;**
[Click here to enter text.](#)
- (iv) **Workplace readiness training to develop social skills and independent living; and**
[Click here to enter text.](#)

Documentation of PETS

- (v) Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).
[Click here to enter text.](#)

How and when was the Vocational Rehabilitation Counselor contacted? [Click here to enter text.](#)

Date the individual applied for Vocational Rehabilitation Services: [Click here to enter text.](#)

Outcome/Status of VR Services: [Click here to enter text.](#)

A copy of this form should be placed in the school's file and the subminimum wage agency's file.

- Employers maintain documentation in their files
- School should maintain a copy in their files
- DHS-VR-259 Form found on the Provider Resources tab at the WWW.DHS.SD.Gov/DRS/ website.



Expanding Service Capacity

- Grants targeting participants with whose current primary employment occurs within a segregated setting or limited work history and
- young adults under the age of 24 with disabilities who have limited employment experience in the community.

RFP #48

- Increased employment services with 11.6 staff
- Agencies: ABS, Aspire, BHW, BHSSC, Huron ACI, Dakota Milestones, Lifescape, LifeQuest, SESDAC
- 1st year results:
 - 34 Youth obtain employment
 - 30 Adults obtain employment

RFP #375

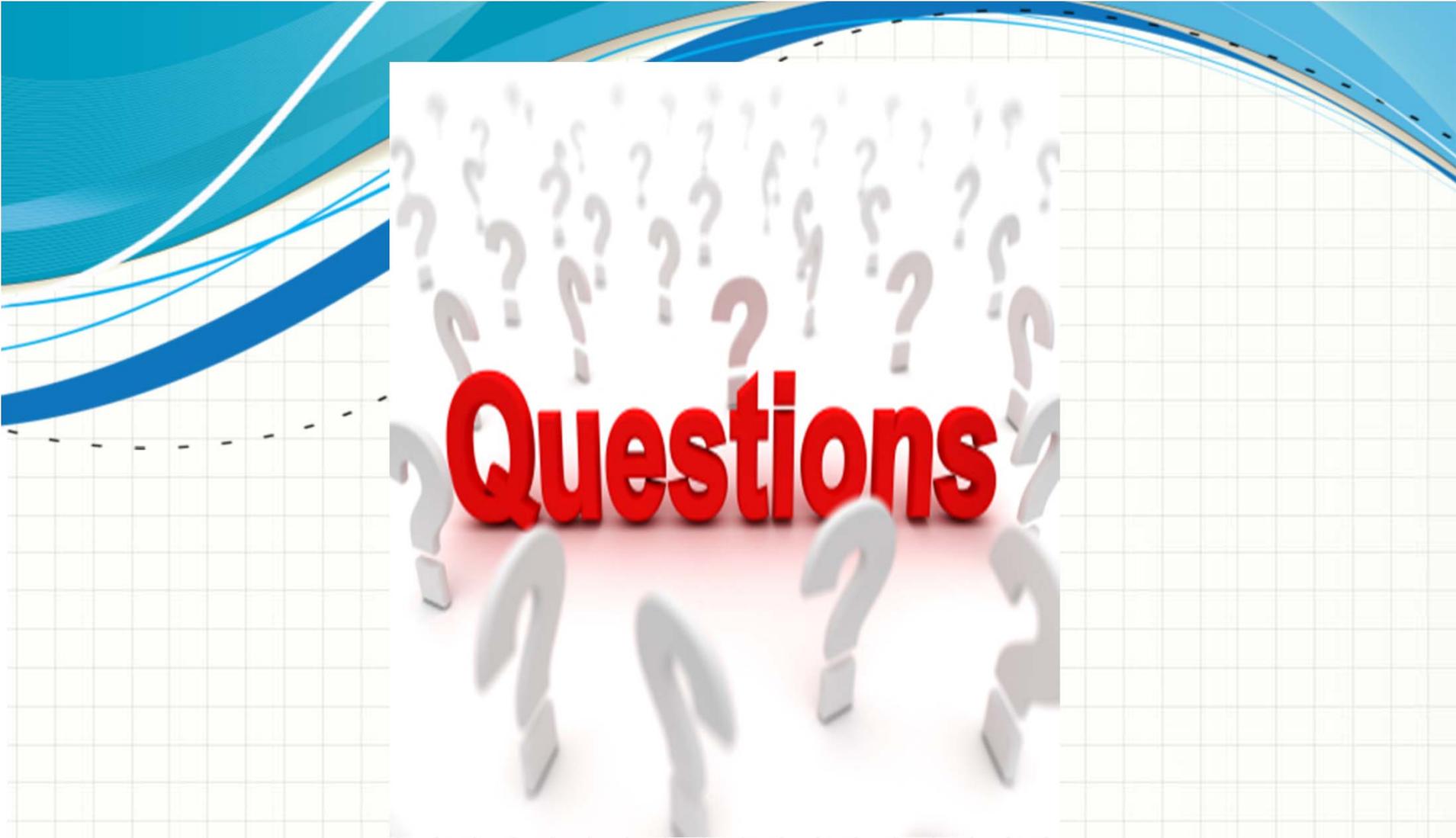
- Starting 1/1/2016
- Increased employment services with 6 staff
- Agencies: Advance, Community Connections, VOA, Northern Hills TC

RFP #392

- Starting 1/1/2016
- Increased employment services with 2.5 staff
- Agencies: Dakota Counseling, Lewis & Clark BHS, Southeastern BHS

Future WIOA/511 Presentations

- March 8th for Community Support Providers – Webinar by Division of Developmental Disabilities
- March 22 – Special Education Conference presentation
- April 13 – webinar for Subminimum Wage Employers



Questions

Provider Resources tab at the WWW.DHS.SD.Gov/DRS/ website

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