

SECTION 511 OF TITLE IV OF THE WORKFORCE INNOVATION AND OPPORTUNITY ACT

Employer Presentation
April 13, 2016 2:00pm (CT)

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

Presentation found in Provider Resources tab
at the WWW.DHS.SD.GOV/DRS/ website.

The Workforce Innovation & Opportunity Act of 2014



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

WIOA

- Core Programs & collaboration
 - Title I: Workforce Development System
 - Title II: Adult Education & literacy
 - Title III: Wagner-Peyser labor exchange
 - Title IV- Vocational Rehabilitation
 - Section 504
 - Section 511

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.

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 individuals employed less than minimum wage.
- New requirements for school districts restricting subminimum wage activities for students with disabilities.

Definitions to understand

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

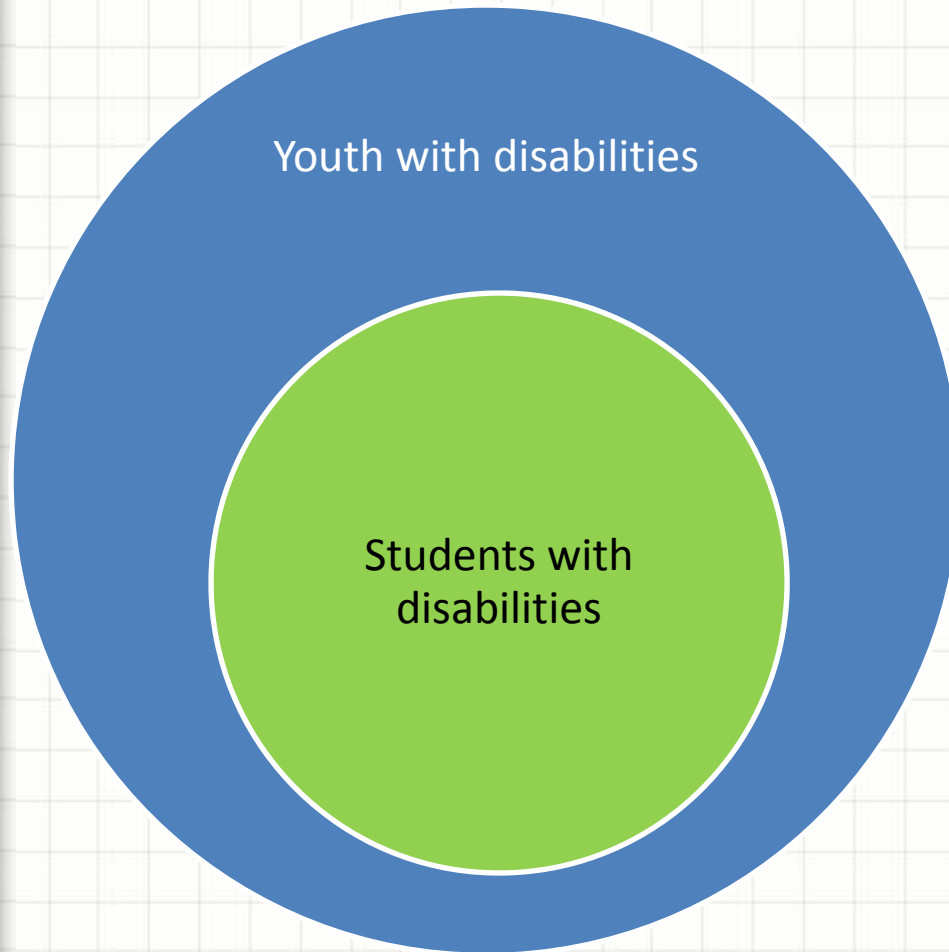
Youth with Disabilities

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.



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.

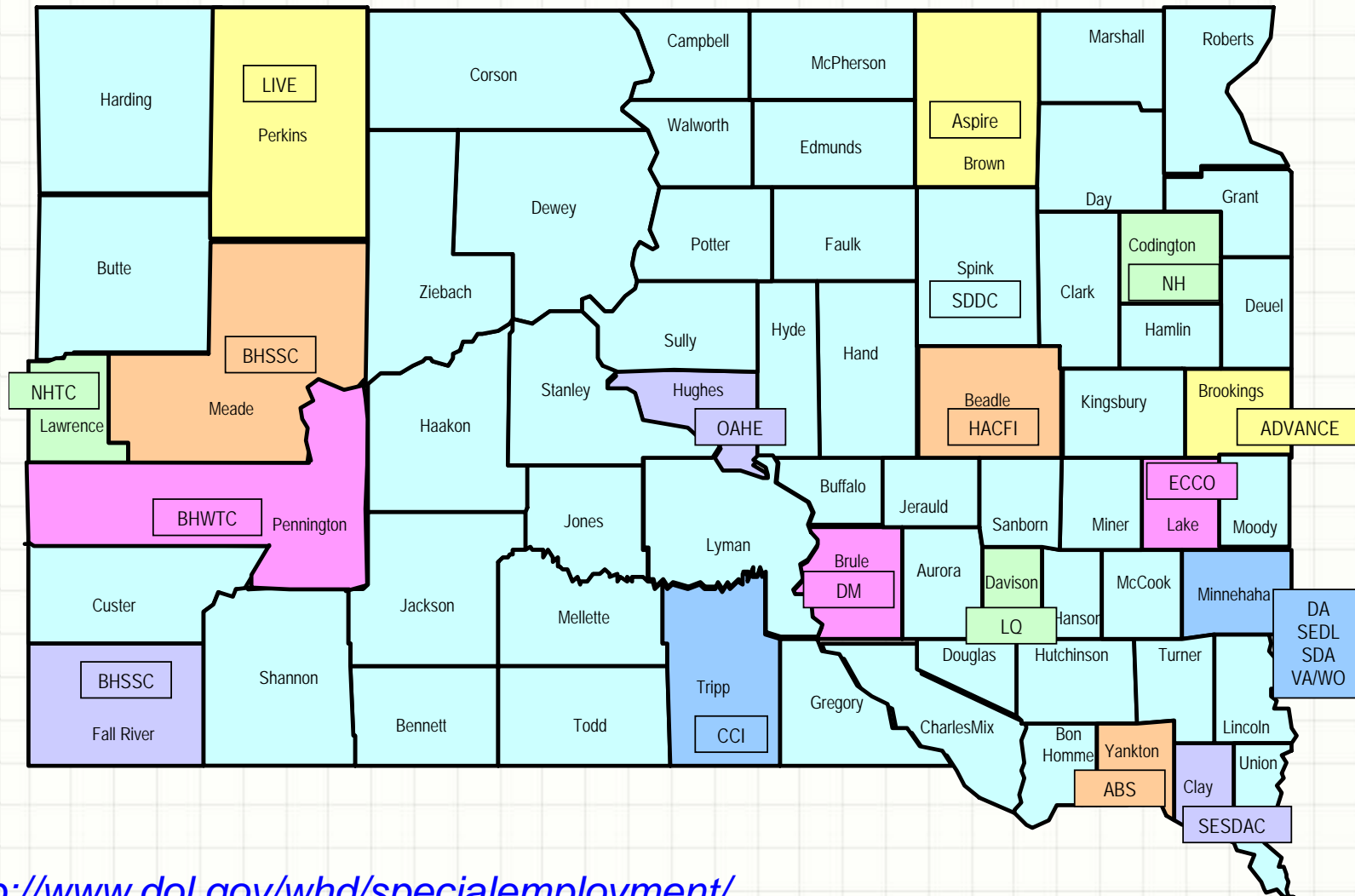
Employee

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
Section 511	Employer

Who are the 14c Employers



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 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.



SECTION 511: LIMITATIONS ON USE OF SUBMINIMUM WAGE FOR YOUTH

If youth are already working in subminimum wage on July 21, 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

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>

Who Does the Reviews

- VR Counselors or contracted reviewers who have experience in VR and Counseling background.
- Reviews cannot be done by 14c employer.
- The State & Employers are separated into three areas.
- These reviewers are identified in on the Provider Resources tab at the WWW.DHS.SD.Gov/DRS/ website.



Sioux Falls/Southeast

Jim Streedbeck; [jqcqstree@sio.midco.net](mailto:jcqstree@sio.midco.net); 605-338-4751

Agencies:

- Ability Building Services
- DakotAbilities
- ECCO, Inc.
- LifeScape
- SESDAC, Inc.
- Southeastern- Directions for Life
- VOA-Dakotas



Central/Northeast

Grady Kickul; gradykickul@pie.midco.net ; 605-280-3828

Agencies:

- ADVANCE
- Aspire Inc.
- Community Connections Inc.
- Dakota Milestones
- Human Service Agency/New Horizons
- Huron Area Center for Independence
- LifeQuest
- Oahe, Inc.
- SDDC



West River Area

Margie Helgeson; mapayton2@gmail.com; 605-389-0354

Agencies:

- Black Hills Special Services
- Black Hills Works
- Live Center
- Northern Hills Training Center

Review Preparation

- Submit data to DRS at least a month before the review using Excel data form or similar data download.
- File saved on agency M drive in DRS folder. Email Bernie Grimme when file is saved.
- Do you want a conference call prior to review with your staff?
- Communicate with Reviewer to arrange date, times and location of review.

Data File

- 1st Record is a sample to be deleted.
- Provide basic contact and demographic information.
- Provide Guardian information
- Provide wage information only for your agency as employer.

Subminimum Wage Employment		
Date Employment Started	Avg Hrly Wage	Average Hrs/Week
01/01/2010	\$4.33	15



Is a signed release needed by the individual with a disability or their parent/guardian?

No. The Section 511 Act and Regulation §397.50 addresses that the Vocational Rehabilitation agency or its contractor is authorized to engage in the review of individual documentation required to meet Section 511 requirements.

What to say to the Employee

A new law starts in July 2016 where individuals who are paid less than minimum wage must meet with a person from the South Dakota Vocational Services to discuss your employment and provide you with information on employment options. You are welcome to have others attend this meeting such as your family members, friends or staff from your employer.

Who can attend the Reviews?

- The individual with a disability (and/or their guardian/guardian if applicable) needs to attend the review and he/she can have anyone else they choose attend the meeting.
- The employer can also attend the meeting if the individual agrees. However, the employer needs to understand that communication needs to occur with the individual with a disability. The individual with a disability must receive career counseling and information/referral services.

Arranging the Reviews

- Work with Reviewer 30 days after data file is sent.
- Prioritize Youth as these individuals should be referred to VR.
- Reviews can start July 1st
- Reviewer should be able to provide documentation right after the review is completed.

SECTION 511: Other Requirements

- VR & Special Education develop Process & Form for Documentation. DHS-VR-359
- Employers maintain documentation in their files
- Federal DLR is still enforcing agency
- Prohibition of schools from subcontracting with subminimum wage providers
- Full implementation July 22, 2016

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.

**BUCKLE
UP**



**IT'S THE
LAW**

**NO TEXTING
WHILE
DRIVING**



IT'S THE LAW

Section 511 is a Law – Not a Program



Questions

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

Bernie.Grimme@state.sd.us 605-773-3195