



**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**DEPARTMENT ON DISABILITY SERVICES**

<b>STANDARD OPERATING PROTOCOL</b>	
Subject: Limits on the use of Subminimum Wage	SOP Number: 2022-RSA-SOP001
Responsible Program or Office: Rehabilitation Services Administration	Effective Date: 1/24/2021
	Number of Pages: 8
Cross References, Related Policies and Procedures, and Related Documents: RSA Informed Choice Policy (2016); DDS Employment First Policy (2014)	

**I. PURPOSE**

The purpose of this Standard Operating Protocol (SOP) is to clarify the role of the District of Columbia Rehabilitation Services Administration (DCRSA) in implementing the limitations on the payment of subminimum wages in accordance with Section 511 of the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA). The purpose of Section 511 is to ensure that people with disabilities, especially students and youth with disabilities, have meaningful experiences that support their potential to be successful in competitive integrated employment. In accordance with the DDS Employment First Policy, DCRSA does not place people in subminimum wage employment. To the extent that DCRSA becomes aware of a person working in subminimum wage employment or seeking subminimum wage employment, DCRSA will implement the provisions of Section 511 as a mechanism to divert people from entering subminimum wage employment and to transition people currently engaged in subminimum wage employment to competitive integrated employment.

**II. RESPONSIBLE STAFF**

The DCRSA Vocational Rehabilitation (VR) staff shall be responsible for meeting the requirements below as overseen by the Deputy Director of RSA.





### III. SCOPE

The requirements outlined below apply to persons, including youth, who are known to be employed in, or seeking to become employed in, subminimum wage employment and includes those served by DCRSA, as well as those who are made known to DCRSA through self-referral or referral by a third party, which may include 14(c) certificate holders. Section 511 requirements apply to commensurate wages that are less than the Federal minimum wage of \$7.25 per hour.

### IV. REQUIREMENTS

#### A. Section 511 Requirements for Persons Currently Earning Subminimum Wage

Each of the following steps are required at 6 months and 12 months after a person begins employment at subminimum wage, and annually thereafter:

1. The VR benefits specialist shall provide career counseling to the person and information and referral to federal and state programs and other resources that support the person to explore and attain competitive integrated employment. The career counseling, information, and referral (CCIR) must be provided in a manner that:
  - a. Is understandable to the person;
  - b. Facilitates informed choice and independent decision-making as the person makes decisions regarding opportunities for competitive integrated employment and career advancement, particularly with respect to supported employment, including customized employment; and
  - c. May include benefits counseling.
2. The benefits specialist shall provide information to the person regarding self-advocacy, self-determination, and peer mentoring training opportunities available in the person's geographic area, and provided by an entity that does not have a financial interest in the person's employment outcome in instances where the person is working for an entity with less than 15 employees.

**Refusal** – Through informed choice, a person earning subminimum wage can refuse to participate in the Section 511 process outlined above. However, if the person refuses to participate in the Section 511 process, they cannot continue to be paid subminimum wage as the business that employs them would be in violation of Section 511



requirements and liable for back wages. This refusal must be documented by the benefits specialist and cannot be documented by the business that employs the person at subminimum wage. Documentation of the person's refusal to participate in the Section 511 process must be provided to the person within 10 calendar days of the refusal.

## **B. Section 511 Requirements for Youth Considering Subminimum Wage Employment**

For youth with disabilities who are 24 and younger, prior to starting in subminimum wage employment, all three of the following steps are required:

1. Completion of Pre-Employment Transition Services (Pre-ETS) through DCRSA or transition services as defined by the Individuals with Disabilities Act (IDEA).
2. Application for vocational rehabilitation (VR) services, resulting in either:
  - a. Determination of ineligibility for VR services, or
  - b. Being determined eligible for services, but unable to achieve the goal of competitive integrated employment in the Individualized Plan for Employment (IPE), despite working toward the employment outcome with reasonable accommodations and appropriate supports and services, including supported employment services and customized employment services for a reasonable time period, resulting in an unsuccessful case closure.
3. Within 30 calendar days after determination of ineligibility or unsuccessful case closure, a VR specialist must provide career counseling, and information and referral to federal and state programs and other resources that offer employment supports to help the person explore and attain competitive integrated employment. The CCIR must be provided in a manner that facilitates informed choice and independent decision-making by the youth, and does not encourage or directly lead to subminimum wage employment.

**Refusal** – A youth or their parent/guardian (as appropriate) can refuse to participate in the Section 511 process, or can opt out of the VR process entirely. The refusal to participate must be documented by the educational agency and/or a DCRSA VR specialist. Youth who refuse to participate may not be paid under a 14(c) subminimum wage certificate, and must be paid at least minimum wage.



Summary of Section 511 Requirements		
Person	Steps Required	Timeline Required
Youth (24 & under) considering employment at subminimum wage	Provision of Pre- ETS, or IDEA transition services.	To be provided prior to youth entering subminimum wage employment.
	Application for VR services with an outcome of either being determined ineligible or case unsuccessfully closed.	
	Provision of career counseling by a VR specialist, and referral to employment related supports.  Provision of information about the availability of self-advocacy, self-determination, and peer mentoring training.	To be provided prior to youth within 30 calendar days of when a youth is found ineligible or closed from VR services if it is known that the youth is seeking subminimum wage employment.
Person currently earning subminimum wage	Provision of career counseling by the benefits specialist, and referral to employment related supports.  Provision of information about the availability of self-advocacy, self-determination, and peer mentoring training.	To be provided at 6 months after beginning subminimum wage employment, 12 months, and annually thereafter while employed at subminimum wage.  The deadline for employees to receive annual CCIR is based on the anniversary date of their employment at subminimum wage.



### C. Documentation Requirements and Processes

The VR specialist or benefits specialist must provide all documentation specified below in an accessible format and retain copies of all documentation as required under Section 511.

1. Required Documentation for Known Persons Currently Working in Subminimum Wage Employment:
  - a. Verification of the provision of career counseling, information and referral services twice a year for the first year of employment and annually thereafter for as long as the individual is working in subminimum wage employment;
  - b. When a referral is made to DCRSA by a 14(c) certificate holder that has fewer than 15 employees, the benefits specialist must inform the person referred within 30 calendar days of self-advocacy, self-determination, and peer mentoring training opportunities available in the community.
  - c. The benefits specialist must provide the person with documentation that a required Section 511 activity has occurred as soon as possible, but no later than 45 calendar days after completion of the required activity or, within 90 calendar days if additional time is necessary due to extenuating circumstances such as a natural disaster or prolonged and unexpected absence of key staff.
  - d. Documentation of a refusal to participate in the Section 511 process shall be provided to the person by the benefits specialist as soon as possible, but no later than 10 calendar days from the date of refusal.
  - e. Documentation of a required service or activity shall, at a minimum, contain the following:
    1. Person's name;
    2. Description of service or activity completed;
    3. Name of benefit specialist providing the required service or activity;
    4. Date the required service or activity was completed;
    5. Signature of the benefit specialist documenting completion of the required service or activity;
    6. Date of signature; and,
    7. Date and method (e.g. hand-delivered, faxed, mailed, emailed, etc.) by which the documentation was transmitted to the person.



- f. Documentation that a person, or as applicable, the person's representative, refuses, through informed choice to participate in the Section 511 process shall at a minimum contain the following:
    1. Person's name;
    2. Description of the refusal and reason for such refusal;
    3. Signature of the person or, as applicable, the person's representative;
    4. Signature of the benefits specialist documenting the person's refusal;
    5. Date of signatures; and
    6. Date and method (e.g. hand-delivered, faxed, mailed, emailed, etc.) by which the documentation was transmitted to the person.
2. Documentation Requirements for Youth Known to be Considering Subminimum Wage Employment:
- a. A VR specialist shall provide documentation of the completion of appropriate pre-employment transition services for students with disabilities.
  - b. A VR specialist shall provide documentation of completion of transition services as documented and provided by the Local Education Agency (LEA).
  - c. A VR specialist must provide the youth with documentation that a required Section 511 action has been completed as soon as possible, but no later than 45 calendar days after completion of the required activity or, within 90 calendar days if additional time is necessary due to extenuating circumstances such as a natural disaster or prolonged and unexpected absence of key staff.
  - d. When transmitting documentation of the final determination or activity completed, the VR specialist shall provide a coversheet that itemizes each of the documents that have been provided to the youth.
  - e. All documentation related to a determination of ineligibility or unsuccessful case closure must meet the requirements of such documentation, as applicable, under 34 C.F.R. Part 361.
  - f. Documentation of a determination or required service or activity shall, at a minimum, contain the following:
    1. Youth's name;
    2. Determination made, including a summary of the reason for the determination or description of the service or activity completed;
    3. Name of person making the determination or providing the required service or activity;



4. Date the determination was made or the required service or activity was completed;
5. Signature of the of person making the determination or documenting completion of the required service or activity;
6. Date of signature;
7. Signature of the VR specialist transmitting documentation to the youth; and
8. Date and method (e.g. hand-delivered, faxed, mailed, emailed, etc.) by which the documentation was transmitted to the person.

g. Documentation that a youth, or as applicable, the youth’s representative, refuses, through informed choice to participate in the Section 511 process shall, at a minimum, contain the following:

1. Person’s name;
2. Description of the refusal and reason for such refusal;
3. Signature of the youth or, as applicable, the youth’s representative;
4. Signature of VR specialist or educational personnel documenting the youth’s refusal;
5. Date of signatures; and
6. Date and method (e.g. hand-delivered, faxed, mailed, emailed, etc.) by which the documentation was transmitted to the person.

Summary of Section 511 Documentation Requirements		
For Persons Currently Earning Subminimum Wage	Entity Responsible	Deadline
Documentation of career counseling, information and referral,  or  Documentation of refusal to participate in Section 511 processes.	DCRSABenefits specialist	Provide documentation to the person within 45 calendar days after completion of CCIR (90 days under extenuating circumstances)  Provide to the person within 10 calendar days of refusal.
Documentation of provision of information on local self-advocacy, self-determination, and peer mentoring training opportunities	DCRSA Benefits specialist in instances where the person is working for an entity with less than 15 employees covered by the 14(c) certificate	Provide documentation to the person within 45 calendar days after completion (90 days under extenuating circumstances)



For Youth Known to be Seeking Subminimum Wage Employment	Entity Responsible	Deadline
<p>Documentation of completion of transition services under IDEA,</p> <p>or</p> <p>Documentation of youth's refusal to participate in IDEA transition services</p>	LEA	<p>Transmitted to DCRSA within 30 calendar days after completion of services (60 days under extenuating circumstances).</p> <p>Transmitted to DCRSA within 5 calendar days after refusal</p>
<p>Documentation of all three required 511 activities for youth prior to entering subminimum wage employment; and documentation of provision of information on local self-advocacy, self-determination, and peer mentoring training opportunities</p> <p>or</p> <p>Documentation of youth's refusal to participate in 511 process.</p>	DCRSA VR specialist	<p>Provided to youth within 45 calendar days of completion (90 days under extenuating circumstances).</p> <p>Provided to youth within 10 calendar days of refusal.</p>