




Title:	Requirements for Subminimum Wage Employment
Procedure #:	80-VR-11-17
Policy Reference:	80-VR-11
Legal Reference:	ORC 3304.15; CFR 361.22, 361.43, 361.48, 361.55, 397.10, 397.20, 397.40 Workforce Innovation and Opportunity Act (WIOA) of 2014
Effective Date:	September 25, 2017
Approved:	Kevin L. Miller, Executive Director 
Origin:	Bureau of Vocational Rehabilitation and Bureau of Services for the Visually Impaired
Supersedes:	N/A
History:	N/A
Review/ Implementation	Begin Review – 03/25/19 Implement Revisions By – 09/25/19

I. PURPOSE

The purpose of this procedure is to provide direction for providing services to youth with disabilities who are seeking subminimum wage employment and to individuals with disabilities, regardless of age, who are in subminimum wage employment in accordance with appropriate federal (e.g. Code of Federal Regulations [CFR]) and state law (i.e. Ohio Revised Code [ORC], Ohio Administrative Code [OAC]), Governor directives and executive orders, other governing agency (e.g. DAS, OBM) policy or guidance, and/or Executive Director expectations.

Refer to the AWARE Manual as there may be additional step-by-step direction related to this procedure.

II. APPLICABILITY

This procedure applies to VR Staff and VR Contractors.

III. DEFINITIONS

Refer to “Vocational Rehabilitation Definitions” (80-VR-99.A).

Designated VR Staff – for the purposes of this procedure, VR Staff designated to perform the duties as listed in this procedure.

Employment First – an initiative established by ORC 5123.022 which states that employment services for individuals with developmental disabilities be directed at community employment that takes place in an integrate setting and that individuals with developmental disabilities are presumed capable of community employment.

IV. PROCEDURES

A. General

1. Opportunities for Ohioans with Disabilities (OOD) shall provide information to individuals and if applicable, their parent(s) or legal guardian(s), throughout the Vocational Rehabilitation (VR) process as required by law (e.g. rights and duties). This information shall be provided in writing, and when appropriate, in their native language or through the appropriate mode of communication.
2. AWARE shall be updated with pertinent conversations, recommendations, justifications, approvals and/or other actions taken in relation to this procedure. If supervisory or management approval is required during the VR process, the supervisor or manager shall document their approval in AWARE. If written approval is received from a supervisor or manager it shall be added to AWARE.
3. Overview of Section 511 of the Workforce Innovation and Opportunity Act (WIOA) of 2014
 - a. Section 511 of WIOA places limitations on 14(c) Certificate Holders and the payment of subminimum wage to individuals with disabilities.
 - b. OOD's role under this procedure is to provide and document completion of certain activities and/or services (i.e. career counseling, information and referral services) to individuals known to be seeking subminimum wage employment or to individuals currently in subminimum wage employment.
 - i. OOD's role is not to approve or disapprove an individual for subminimum wage employment.
 - c. Section 511 does not pertain to services or settings; but, rather, to wages paid. Therefore, the requirements of this section must be met for any individual earning subminimum wage under a Section 14(c) Certificate regardless of the setting or type of employment.
4. If A VR Contractor receives a request for any document or services listed in this procedure for which he/she is not approved to provide, he/she shall complete an "Activity Due" in AWARE for the Vocational Rehabilitation (VR) Liaison Counselor.

B. Youth With A Disability (herein referred to as "youth") Seeking Subminimum Wage Employment

1. If a youth with a disability (age 24 or younger) is seeking subminimum wage employment on or after July 22, 2016 the items listed below apply.
 - a. If the youth has never applied for VR services or if his/her closed case did not meet the requirements under Section b. ii. below (i.e. "Requirement 2"), refer to "Application and Intake" (80-VR-01 and 80-VR-01-01) and "Eligibility and Order of Selection" (80-VR-06) and subsequent procedures as he/she will have to apply (or re-apply) for services.

- b. If the youth has an open referral or an appropriate closed (or open) VR case, the three (3) requirements listed below must be met prior to the completion of a "Documentation for Youth Seeking Subminimum Wage" (80-VR-11-17.A) form.
- i. Requirement 1: The youth has received either pre-employment transition services as defined by WIOA or transition services as defined by IDEA. Below is a description of each of these services.
- a) Pre-employment transition services as defined by WIOA include:
- 1) job exploration experiences;
 - 2) work-based learning experiences;
 - 3) counseling on postsecondary educational programs;
 - 4) workplace readiness training; and
 - 5) instruction in self-advocacy.
- b) Transition services as defined by IDEA include:
- 1) instruction;
 - 2) related services;
 - 3) community experiences;
 - 4) development of employment and other post-school living objectives; and
 - 5) acquisition of daily living skills and provision of functional vocational evaluation.
- c) If documentation of one (1) of these services is not present in the youth's AWARE case file, VR Staff or VR Contractor shall complete the "Request for Documentation of Transition Services" (80-VR-11-17.B) letter (which shall be saved as a Case Note in AWARE) and send via email, fax or US Mail to the Local Education Agency (LEA).
- 1) A signed "Consent to Obtain and Release Information" (80-VR-01.G) shall be included with the letter.
- d) Upon receipt of OOD's request, the LEA is required to provide Ohio Department of Education's (ODE) "Documentation of Transition Services under IDEA" form and the youth's most recent IEP containing a description of the transition services received.
- 1) The LEA shall send the documents as soon as possible, but no later than:
 - 1.1 30 calendar days after completion of the transition services; or
 - 1.2 60 calendar days after completion of the transition services, if additional time is necessary due to extenuating circumstances (i.e. unexpected lengthy absence due to illness or family emergency of the educational personnel); or
 - 1.3 five (5) calendar days after a youth has refused to participate in a required transition service.
- e) VR Staff or VR Contractor shall scan the documentation received into an AWARE Case Note titled "Documentation of Transition Services under IDEA".

- ii. Requirement 2: An eligibility determination has been made and the youth was either determined:
 - a) ineligible with a closure reason of “Disability Too Severe/Unable to Benefit from Services”; or
 - b) eligible for services with an approved Individualized Plan for Employment (IPE); however, the youth was subsequently:
 - 1) unable to achieve the employment outcome listed in the IPE; and
 - 2) the case was or will be closed without an employment outcome despite working toward the employment outcome which included reasonable accommodations and appropriate supports and services, for a reasonable period of time.
 - 2.1 The reasonable period of time shall be consistent with the youth’s disability-related and vocational needs, as well as the anticipated length of time required to complete the services identified in the IPE.
 - 2.2 When closing the case in AWARE with an outcome of “Other Than Rehabilitated”, a Qualified Rehabilitation Personnel (QRP) shall use the closure reason of “Extended Employment and Subminimum Wage.”
- iii. Requirement 3: The youth has been provided career counseling and information and referral, per direction in “VR Information and Referral” (80-VR-11-07), to public programs and other locally available resources that offer employment-related services and supports designed to attain competitive integrated employment. These services may not include work compensated at subminimum wage, or result in employment at subminimum wage.
 - a) Career counseling shall be provided in a manner that facilitates informed choice and decision-making by the youth and/or if applicable, his/her parent or legal guardian. The counseling should be by direct contact, preferably a face-to-face meeting, and may include, but not be limited to, the following information:
 - 1) an explanation of the youth’s rights and duties and informed choice;
 - 2) a discussion of Employment First, places on the path to community employment, competitive integrated employment, supported employment services, in-demand jobs along with local labor market information, information about work incentives and benefits; and
 - 3) an overview of VR services and how to access services in the future.
 - b) For a current case, VR Staff shall provide career counseling and information and referral services within 30 calendar days of an ineligibility determination or case closure.

- c) For a previously closed case, VR Staff shall provide career counseling and information and referral services, as soon as possible but no longer than 30 days, after verifying Requirements 1 and 2 have been met.
- 2. Once it has been verified that all of the requirements in Section B.1. have been met, the items listed below shall be completed by a Qualified Rehabilitation Personnel (QRP).
 - a. If there is an open case, a QRP shall first close the case in AWARE prior to beginning the process below.
 - b. Complete, sign and date the "Documentation for Youth Seeking Subminimum Wage" (80-VR-11-17.A).
 - i. The original form shall then be provided to the youth or if applicable, to his/her parent or legal guardian as soon as possible but no later than 45 calendar days after completing the determination that the requirements listed in Section B.1. have been met.
 - ii. Retain a copy of the form for entry into AWARE.
 - c. Scan the "Documentation for Youth Seeking Subminimum Wage" (80-VR-11-17A) into an AWARE Case Note.
- 3. If the youth refuses to participate in the requirements listed in B.1, VR Staff shall complete the items below.
 - a. Inform the youth and/or if applicable, his/her parent or legal guardian, that his/her refusal to participate will prohibit him/her from working in subminimum wage employment.
 - b. Complete and obtain all appropriate signatures and dates on the "Refusal to Participate in Required Activities Prior to Subminimum Wage Employment for a Youth with a Disability" form (80-VR-11-17.C) within 10 calendar days of the refusal.
 - i. If a youth has an open or closed case in AWARE, the form shall be scanned into AWARE as a Case Note.
 - ii. If a youth does not have an open or closed case in AWARE and/or does not want to become an applicant, proceed as detailed below.
 - a) Consult with his/her supervisor to have designated VR Staff enter the information into a 'SUB' case type in AWARE ; and
 - b) Inform the youth and/or if applicable, his/her parent or legal guardian, of their right to apply for VR services in the future.
 - c. If the youth has an open case, the QRP shall close the case in AWARE as "Other Than Rehabilitated" with the closure reason of "Declined Services".

C. Career Counseling and Information and Referral Services to Individuals in Subminimum Wage Regardless of Age

1. Upon request from an entity (e.g. 14(c) Certificate Holder, individual), designated VR Staff shall provide individuals in subminimum wage employment career counseling and information and referral services, as outlined in "VR Information and Referral" (80-VR-11-07), to public programs and other locally available resources that offer employment-related services and supports designed to attain competitive integrated employment.
 - a. Career counseling shall be provided to individuals, regardless of age, participating in subminimum wage employment at the following required intervals:
 - i. if hired prior to July 22, 2016, annually for the duration of subminimum wage employment; or
 - ii. if hired after July 22, 2016, every six (6) months during their first year of subminimum wage employment; and annually thereafter for the duration of subminimum wage employment.
 - b. Individuals With a Known Open VR Case
 - i. The career counseling and information referral services requirement is met for individuals with an open VR case therefore VR Staff may complete the appropriate "Career Counseling Documentation Form" (80-VR-11-17.D through 80-VR-11-17.J) when requested.
 - a) VR Staff shall scan the signed form into an AWARE Case Note and then provide the original and a copy of the form to the individual.
 - b) The individual is responsible for providing the signed form to the 14(c) Certificate Holder unless OOD has a signed "Consent to Obtain or Release Information" (80-VR-01.G) form for the 14(c) Certificate Holder which would then allow OOD to release the form to the 14(c) Certificate Holder.
 - c. Career Counseling and Information Referral Services Provided via Request from a 14(c) Certificate Holder
 - i. Upon request from a 14(c) Certificate Holder, designated VR Staff should work with Certificate Holders to complete the items below.
 - a) Schedule group career counseling sessions, preferably at the 14(c) Certificate Holder's facility.
 - 1) It is preferred that each session consist of 10 to 12 participants but not exceed 15 participants.
 - 2) Multiple sessions should be scheduled throughout the day to meet the individuals' needs and to utilize the designated VR Staff time efficiently.
 - 3) Sessions should be scheduled in 45-minute increments with at least 15 minutes in between to allow time for questions and the completion of the appropriate "Career Counseling Documentation Form" (80-VR-11-17.D through J.), which verifies that the individual participated in career counseling and information and referral services.

- ii. Designated VR Staff shall request that the 14(c) Certificate Holder perform the items listed below.
 - a) Identify the individuals in subminimum wage employment who require career counseling and information and referral services and the timeframe in which it must be provided.
 - b) Assign the identified individuals to a career counseling and information and referral session.
 - 1) Upon request of an individual or if applicable, his/her parent or legal guardian, and/or the 14(c) Certificate Holder, designated VR Staff may provide career counseling and information and referral services in a smaller group or individually, in order to accommodate an individual's needs.
 - c) Complete a "Request for Career Counseling Services" (80-VR-11-17.K) which OOD requires for each individual receiving subminimum wage, prior to his/her participation in career counseling.
 - 1) Prior to the beginning of each career counseling session, provide these forms to the designated VR Staff who will retain for entry into AWARE.
- iii. Career counseling shall be provided in a manner that facilitates informed choice and decision-making by the individual and if applicable, his/her parent or legal guardian. The counseling should be by direct contact, preferably a face-to-face meeting, and may include, but not be limited to, the following information:
 - a) an explanation of individual's rights and duties and informed choice;
 - b) a discussion of Employment First, places on the path to community employment, competitive integrated employment, supported employment services, in-demand jobs along with local labor market information, information about work incentives and benefits;
 - c) an overview of VR services and how to access services in the future; and
 - d) upon request from 14 (c) Certificate Holders, as an entity, who employ fewer than 15 total employees, designated VR Staff shall also provide information about self-advocacy, self-determination and peer mentoring training opportunities available in the individual's geographic area.
 - 1) The training opportunities shared may not be provided by 14(c) Certificate Holders.
- iv. Once career counseling and information and referral services have been provided designated VR Staff shall complete the items below.
 - a) Complete, sign and date the appropriate "Career Counseling Documentation Form" (80-VR-11-17.D – J).

- 1) Provide the original and one (1) copy of the form to the individual or if applicable, to his/her parent or legal guardian, immediately after the session or as soon as possible, but no later than 45 calendar days or 90 calendar days if there are extenuating circumstances.
 - 1.1 The individual shall be instructed to keep one (1) signed copy and provide the other to the Certificate Holder for their records.
 - 2) Retain a copy of the form for entry into AWARE.
- b) Document career counseling and information and referral services in AWARE, within a timeframe designated by his/her supervisor which shall not exceed five (5) business days of the career counseling session by performing the items listed below.
- 1) Create a new 'SUB' case in the AWARE Participant Module for each new event of career counseling.
 - 1.1 When creating the 'SUB' case, at the bottom of the screen, AWARE should indicate if the individual has an open referral (and if there are open or closed VR cases).
 - 1.1.1 If an individual has an open referral, go to the AWARE Referral Module and click on "Open Referral" in order to write down the individual's "Outcome" which will be used for future use/correction (refer to 1.2.1 below).
 - 1.2 Re-open the 'SUB' case and perform steps detailed in 2) through 4) below.
 - 1.2.1 Once steps 2) through 4) are completed, return to the AWARE Referral Module and correct the individual's "Outcome" to the status listed prior to the referral closure (see 1.1.1 above).
 - 2) After entering the date that career counseling was provided, as indicated on the "Career Counseling Documentation Form" (80-VR-11-17.D – J.), in the "Application Date" field in AWARE, VR Staff shall continue entering the data elements listed below.
 - 2.1 Name of individual.
 - 2.2 Social Security Number
 - 2.3 Date of birth.
 - 2.4 Address, phone number and e-mail address, if applicable.
 - 2.5 Name, address, phone number and contact name for 14 (c) Certificate Holder.
 - 2.6 Location of subminimum wage employment.
 - 2.7 Date career counseling was provided (must match the "Application Date" which was the date on the "Career Counseling Documentation Form").

- 3) Designated VR Staff shall scan the two (2) forms listed below into an AWARE Case Note.

- 3.1 "Request for Career Counseling Services"; and

- 3.2 "Career Counseling Documentation Form".

Note: If an individual attends more than one career counseling session for the same event, (e.g. annual career counseling twice), VR Staff shall add an AWARE Case Note in the individual's previously closed 'SUB' case attaching the additional "Request for Career Counseling Services" (80-VR-11-17.K) and the "Career Counseling Documentation Form".

- 4) Close the case in AWARE using the date that the career counseling was provided which shall match the "Application Date".

- 4.1 To close the case, designated VR Staff shall select one of the following reasons for closure:

- 4.1.1 "Annual Career Counseling";

- 4.1.2 "Initial 6-Month Career Counseling"; or

- 4.1.3 "Subsequent 6-Month Career Counseling".

d. Refusal to Participate in Career Counseling Services.

- i. In the event an individual refuses to participate in career counseling services, designated VR Staff shall:

- a) inform the individual and/or, if applicable, his/her parent or legal guardian, that refusal to participate will prohibit him/her from working in subminimum wage employment; and

- b) complete and obtain all appropriate signatures on the "Refusal of Career Counseling Documentation for Individuals in Subminimum Wage Employment" (80-VR-11-17.L) and scan into AWARE as a Case Note.

- 1) Provide the original, signed form to the individual, and/or if applicable to his/her parent or legal guardian within 10 calendar days of refusal.

D. Violation

An employee who violates this procedure may be subject to discipline up to and including removal.

FORMS AND ATTACHMENTS

- 80-VR-11-17.A Documentation for Youth Seeking Subminimum Wage
- 80-VR-11-17.B Request for Documentation of Transition Services under IDEA
- 80-VR-11-17.C Refusal to Participate in Required Activities Prior To Subminimum Wage
- 80-VR-11-17.D Career Counseling Documentation Form – Canton
- 80-VR-11-17.E Career Counseling Documentation Form – Cincinnati
- 80-VR-11-17.F Career Counseling Documentation Form – Cleveland
- 80-VR-11-17.G Career Counseling Documentation Form – Columbus

- 80-VR-11-17.H Career Counseling Documentation Form – Dayton
- 80-VR-11-17.I Career Counseling Documentation Form – Toledo
- 80-VR-11-17.J Career Counseling Documentation Form – Zanesville
- 80-VR-11-17.K Request for Career Counseling Services
- 80-VR-11-17.L Refusal of Career Counseling Documentation for Individuals in Subminimum Wage Employment

RESOURCES

- 80-VR-01.G Consent to Obtain or Release Information
- 80-VR-11-07 Information and Referral
- 80-VR-02 and 80-VR-02-01 Case Closure
- Employment First Taskforce Joint Guidance on Limitations on Use of Subminimum Wage
- ODE’s “Documentation of Transition Services under IDEA” form

REVIEW

It is the responsibility of the Deputy Director, or designee, to review this procedure, on or before, the date listed in the header and if applicable, make any necessary revisions. The Deputy Director or designee shall document the review as required in OOD Policy 10-ADM-01 “Policy and Procedure Development, Review, Dissemination and Acknowledgement”.