

Notice to entities holding a certificate under section 14(c) of the Fair Labor Standards Act

Title IV of the Workforce Innovation and Opportunity Act (WIOA) amended the Rehabilitation Act of 1973 (the Act). The WIOA amendments added section 511 to the Act that pertains to individuals working under a special wage certificate issued to an employer under section 14(c) of the Fair Labor Standards Act of 1938 (FLSA) that authorizes payment of subminimum wages under certain conditions. The new section 511 applies to all entities holding a certificate under section 14(c) that employ or are interested in employing individuals with disabilities at subminimum wages.ⁱ

Section 511 requires individuals with disabilities of any ageⁱⁱ employed at subminimum wages to satisfy certain service-related requirements in order to continue work at subminimum wage, and requires vocational rehabilitation agencies to provide documentation of the completion of those required services directly to the individual with a disability. Section 14(c) certificate holders must review and verify the required documentation received by individuals with disabilities prior to paying or continuing to pay them subminimum wages.

The vocational rehabilitation agencies must provide career counseling and information and referral services in a manner that facilitates independent decision-making and informed choice. These services must not support subminimum wage employment or facilitate employment-related services that result in employment compensated at a subminimum wage. The New Jersey Division of Vocational Rehabilitation Services (DVRS) is the vocational rehabilitation agency required to provide these services for individuals working for subminimum wages.

In order to provide the career counseling to the individuals in facilities who are not known to the DVRS, a referral must be made to the local DVRS office in that catchment area. You can access the confidential online referral form

at: http://careerconnections.nj.gov/careerconnections/plan/foryou/disable/vocational_rehabilitation_services.shtml

Once the local DVRS office receives the referral, the individual will receive an appointment for an intake interview by a vocational rehabilitation counselor. The DVRS is committed to providing the appropriate career counseling and guidance to individuals currently receiving subminimum wages. These individuals will receive individualized career counseling and guidance needed in order to assist them in making an informed choice regarding their opportunities for competitive integrated employment.

ⁱ Please note that section 511 does not change the purpose of the Rehabilitation Act, promote subminimum wage employment, eliminate sheltered workshops, or eliminate section 14(c) of the FLSA or the ability to pay subminimum wages under that provision.

ⁱⁱ The specific requirements of section 511 for youth will be addressed separately.