

Inter-Departmental Agreement between the Nebraska Department of Education Offices of Nebraska VR and the Office of Special Education

I. Background:

Both the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 (The Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA) require Vocational Rehabilitation (VR) agencies and State Educational Agencies (SEA) to plan and coordinate transition services, as well as pre-employment transition services for students (Pre-Ets) with disabilities through a formal interagency agreement. Additional references used in this document include Sections 113 and 511 of the Rehabilitation Act, and the Final Regulations; State Vocational Rehabilitation Services Program; State Supported Employment Services Program; and Limitations on Use of Subminimum Wage.

II. Purpose

The Nebraska Department of Education (NDE) Office of Special Education and Nebraska VR (Vocational Rehabilitation) share responsibility to prepare students with disabilities for successful community employment. The purpose of this inter-departmental agreement between Nebraska VR (79-11,124) and the NDE Office of Special Education is to facilitate the integration and coordination of pre-employment transition services, transition services and other VR services as students with disabilities move from school to post-secondary education and/or employment. Specifically, this agreement serves as a mechanism for Nebraska VR, the NDE Office of Special Education and, as appropriate, local education agencies (LEAs) to clearly specify the plans, policies and procedures for coordinating services to facilitate the transition of students with disabilities including:

- Consultation and technical assistance to assist in planning for the transition of students with disabilities;
- Pre-employment transition services;
- Transition planning by Nebraska VR and educational personnel that facilitates the development of a student's individualized education plan (IEP);
- Criteria for determining and assigning the financial programmatic roles and responsibilities of each agency for the provision of pre-employment transition services and transition services to students with disabilities;
- Outreach and identification of students with disabilities and assessment of their potential need for transition services and pre-employment transition services;
- Documentation requirements set forth in section 511 of the Rehabilitation Act with regard to students with disabilities who are seeking subminimum wage employment; and
- Assurances that the SEA nor the LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of operating a program under which a youth with a disability is engaged in work at subminimum wage.

III. Consultation and Technical Assistance

Nebraska VR staff will provide consultation and technical assistance to LEAs regarding services to potentially eligible students with disabilities. These services are intended to benefit students with disabilities as they transition from school to post-secondary life related to an employment outcome.

A vocational rehabilitation specialist or a pre-employment transition specialist will work in concert with the LEA to provide services for individuals who are receiving special education services under an IEP or individuals who are eligible for the receipt of services in a school setting for the purposes of Section 504 to provide pre-employment transition services to students who are potentially eligible but have not yet applied for Nebraska VR services. Services may include, but are not limited to: group tours of universities and vocational training programs, employer or business site visits to learn about career opportunities, career fairs coordinated with Workforce Development partners and employers to facilitate mock interviews, resume writing, job exploration

counseling, work place readiness, work-based learning, counseling on opportunities at post-secondary institutions, self-advocacy and other general services applicable to groups of students with disabilities. These services are generally provided with groups of students who are under an IEP or eligible for the purposes of Section 504, but may be delivered on an individualized basis if the class schedule is not conducive to group work. Pre-employment transition services (Pre-Ets) are considered an early start on career exploration for students with disabilities and are provided to students under a Pre-Employment Transition Consent and Release Form signed by the student and his/her parent or guardian/authorized representative if under the age of 19. Additionally, students with disabilities may receive more intensive and goal oriented transition and other VR services when they complete an application and complete the eligibility process for VR services.

Educators will request consultation and technical assistance services from Nebraska VR when needed to plan for individual transition needs. Consultation and technical assistance may be provided in person or through alternative means, such as video conference and conference calls. Nebraska VR may utilize a variety of technology in order to meet with students, parents, and school district personnel. The technology may also be used to deliver pre-employment transition services and attend student IEP meetings. Nebraska VR will make reasonable efforts to utilize a variety of virtual platforms in order to best meet the needs of students, families, and schools.

In a multi-tiered system of support (MTSS), Nebraska VR involvement is directly related to the level of support needed by the student and the point at which Nebraska VR involvement is required.

IV. Transition Planning

Nebraska VR specialists and educators are both responsible for the development and completion of the transition component of a student's Individualized Education Program (IEP) in concert with the student, the parents, and the IEP team. Nebraska VR involvement in the IEP development and completion will be determined by individual student need. Pre-employment transition services are provided to students in the 14-21 age range. IEP teams and Nebraska VR specialists will consider four factors to determine when employment preparation should start and the intensity of the services that should be provided:

- Student knowledge and skills;
- Student learning characteristics, including student response to ease of accessibility and accommodations;
- Complexity of support needs; and
- Number of environments effected.

The more intense needs for services, the earlier preparation should start and the more people who have specialized knowledge (e.g. work experience counselors, Nebraska VR specialists) should be involved. This involvement may be provided by Nebraska VR as part of the pre-employment services provided. These services can be conducted in a group setting and will require collaboration to determine the Pre-Ets activities that are needed by that specific LEA and will suit the students in that setting. When appropriate due to scheduling and other factors they may be provided on an individualized basis when such conflicts prevent the service from being provided in groups. Pre-Ets activities can be provided as soon as a Pre-Employment Transition Consent and Release Form is signed by the student and his/her parent or guardian if under the age of 19. A parent signature on the Pre-Employment Consent and Release Form is sufficient to declare a disability for the purposes of receiving Pre-Ets but is distinct from the application and eligibility process required for more intensive individualized Nebraska VR Services:

The local school district and Nebraska VR must collaborate to ensure the provision of the following pre-employment transition services to students.

- Job exploration counseling;
- Work-based learning experiences;
- Counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs at institutions of higher education;

- Workplace readiness training to develop social skills and independent living and
- Instruction in self-advocacy which may include peer mentoring.

After the provision of the required pre-employment transition activities, pre-employment transition funds may be used to improve the transition of students with disabilities from school to post-secondary education or an employment outcome by implementing authorized activities that could include developing model transition demonstration projects, providing training for VR specialists and teachers, and implement effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces, with an emphasis on improving outcomes for students with the most significant disabilities.

Those students who require more intensive services in order to learn, understand and apply the information from Pre-Ets activities will be encouraged to submit an application for Nebraska VR services. Intense services may not be provided without the student having been determined eligible and services under an Individualized Plan for Employment (IPE). It is anticipated most students will be served under a Pre-Ets category until they desire or require more intense services as they approach graduation. Students who apply for VR services can continue to access Pre-Ets in addition to VR services, as long as they remain eligible and can benefit from VR services.

Nebraska VR staff will review information for students who submit an application for services and LEAs will share existing information which will assist Nebraska VR in determining a student's eligibility. If needed, students will participate in additional assessment(s) to determine eligibility. The scheduling of these assessment(s) will require collaboration between Nebraska VR and LEA staff.

Once an eligibility determination has been made by Nebraska VR, within 60 days of an application unless an extension is approved, the decision will be shared with the LEA staff. This information will be considered as part of the student's transition plan within the IEP.

Nebraska VR specialists will develop an IPE for each individual determined to be eligible for Nebraska VR services within 90 days of eligibility, unless an extension has been approved. The student, parents, educators and Nebraska VR specialists will collaborate so the goals of the IEP and the IPE will be consistent with one another.

Staff may use a ***projected post school employment outcome*** to develop the IPE with students eligible for pre-employment transition after eligibility for VR services is established.

The IPE with a projected post-school employment outcome should:

- Outline the services and activities that will guide the individual's career exploration
- Include the Pre-Employment Transition Services necessary for the student to explore career options.
- Align with the Individualized Education Program (IEP) or 504 services as applicable
- Facilitate the individual's exploration and identification of an employment goal based upon informed choice
- Be a specific projected post school employment outcome, such as a graphic designer (SOC: 27-1024), or a broader projected post school employment outcome, such as Food Preparer (SOC: 35-0000)
- Be amended during the career development process and revised to a specific employment goal once this process is completed. Staff must amend the IPE as soon as they have agreed on an employment goal **prior to graduation** or exit from the secondary school setting

No determination of supported employment is required if developing an IPE with a projected job goal. The supported employment service will be included on the amended IPE with the specific employment goal, if needed.

What if Nebraska VR is in an Order of Selection (OOS)?

Students who are considered "potentially eligible" for VR services will receive pre-employment transition services regardless of the OOS and are served when a signed Pre-Employment Transition Consent and Release is in place.

Students with disabilities who apply for VR services and who began receiving pre-employment transition services prior to applying for and being determined eligible will continue to have access to pre-employment transition services even if their priority group is closed and assigned to the waiting list.

Any student with a disability that has applied for VR services who is not yet participating in pre-employment transition services when the eligibility determination is made, and who is placed in a closed priority group and placed on a waiting list will be served when funding is sufficient, based on the date the application is signed by the client. VR will take steps to initiate pre-employment transition services during the VR application intake appointment, so that any student who qualifies may be able to receive pre-employment transition services while on the waiting list.

Any student with a disability who is determined eligible for VR services and placed in an open priority group can receive the full range of services offered through VR including pre-employment transition services and individualized VR services.

V. Roles, Responsibilities and Financial Obligations

Nebraska VR	NDE Office of Special Education
Provide pre-employment transition services in collaboration and coordination with the LEA, ensuring that services (including individualized services under an IPE) are not duplicative nor do they supplant existing LEA services.	Will ensure LEAs understand their responsibilities to: Provide all existing educational assessment and performance information relevant for the determination of Nebraska VR eligibility and to assist in the delivery of Pre-Ets to students.
Provide consultation and technical assistance to educators.	Consult with Nebraska VR staff for identification of student's vocational needs and services.
Participate in the development of the employment and related components of the IEP, based on individual need.	Develop and complete the employment component of the IEP, based on individual need.
Develop an IPE for students within 90 days of eligibility, unless an extension is approved.	Ensure IEP employment goals are consistent with IPE goals, where appropriate.
Ensure the IPE goals are consistent with the IEP employment goals.	Work with Nebraska VR staff to identify whether Nebraska VR referral is appropriate and the supports needed to complete the application.
Provide or arrange for services required by the IPE goal, when the individual has been determined eligible for Nebraska VR services and has an individualized employment plan where the services are needed for the student's specific employment outcome.	Pay for all services listed on the IEP unless another agency or entity agrees to provide such services.
Provide assistance in the purchase of tools, supplies and other job related personal expenses for Nebraska VR eligible students as it relates to the IPE goal	Provide and/or pay for job coaching, when needed, as part of the instructional component of the IEP.
Arrange and pay for job development needed to serve the most significantly disabled students who require supported employment services. If long-term supports are needed after high school, Nebraska VR will assist the LEA in coordinating these services.	Provide and/or pay for extended school year supports as needed.

Assure the completion of certain service-related activities and that these activities are documented before a 14 (C) may begin compensating a youth with a disability at sub-minimum wage. Documentation of Pre-ETS and Transition Services provided by LEA and VR will be collected and copy provided to student and authorized representative.	LEA will be advised not to enter into an agreement with an entity holding a special wage certificate under section 14 (C) of the Fair Labor Standards Act for the purpose of operating a program under which a youth with a disability is engaged in work at a sub-minimum wage.
Information provided by the student's education team will be used to inform the provision of appropriate Pre-Ets and to determine eligibility for and the provision of VR services. Securing additional assessments only when necessary and assuming financial responsibility for the cost of additional information.	Refer any student with a disability known to be seeking sub-minimum wage employment to Nebraska VR and provide documentation regarding the provision of pre-employment transition services for those seeking sub-minimum wage.
	Request consultation and technical assistance from Nebraska VR specialists when needed for planning and implementation of transition services.

VI. Outreach and Identification-

Nebraska VR is an integral part of the statewide workforce development system and assesses, plans, develops, and provides vocational rehabilitation services for individuals with disabilities according to the Rehabilitation Act as amended by the Workforce Innovation Opportunity Act Section 361.48, consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice so they may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency.

Scope of services: all students with disabilities may receive pre-employment transition services. This includes students who are verified for special education, students who are served under a Section 504 accommodation plan, students with a disability for the purposes of Section 504 (even if they do not have a Section 504 accommodation plan in place). A parent/authorized representative signature on the Pre-Employment Consent and Release Form is sufficient to declare a disability for the purposes of receiving Pre-Ets.

The determination of eligibility for VR services (as distinct from Pre-Ets), which includes an Individualized Plan for Employment (IPE) requires a qualified rehabilitation professional employed by Nebraska VR perform a comprehensive analysis of the disabling conditions, impediments to employment and justification of why the individual requires services from Nebraska VR to be successfully employed. As such, an eligibility decision is a process for the rehabilitation specialist to learn about the individual's presenting disability and gain understanding of the implications.

The Nebraska VR Specialist will:

- Gather information that describes the individual's disability and the difficulty the individual is having in gaining access to services and supports to be successful in employment;
- Analyze the information in relationship to the individual's ability to prepare for, obtain, maintain and advance in employment and how the individual can access services and supports that exist to more fully understand the implications of the individual's disability under employment;
- Consider ~~those~~ impediments that have been identified to determine the seriousness on the

individual's ability to prepare for, obtain, maintain or advance in employment as well as the timeframe required to successfully complete services and obtain employment that could not otherwise be obtained from other organizations; and,

- Determine the priority for services by examining the seriousness and evaluation if the serious impediment has implications in preparing for, obtaining, maintaining or advancing in employment and the specialized services and supports that are necessary for the individual to be successful.

As appropriate to the vocational needs of each individual and consistent with each individuals' informed choice, VR must ensure the appropriate rehabilitation services are available to assist the individual with the disability to prepare for secure, retain, regain or advance employment. These services should be consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choices.

Note: Parental consent is not needed for the initial meeting between student and Nebraska VR staff or any related initial follow-up meetings. Written and parental consent is needed for the provision of Pre-Ets and for the completion of the Nebraska VR application for students under the age of 19, and for any student with an IEP, regardless of age. This can be obtained after the initial meeting and can be obtained after the initial meeting.

NDE Office of Special Education will strongly encourage all school personnel, including school nurses, to share educational information of students with disabilities, including electronic access to IEPs, when appropriate and necessary for Pre-Ets and Nebraska VR services. This includes referrals to Nebraska VR. Similarly, the Nebraska VR staff will share relevant information about students with disabilities when appropriate and necessary to facilitate the integration and coordination of transition services from school to post-secondary education and/or employment.

Nebraska VR staff may have access to relevant special education data and related systems in order to ease provision and documentation of services.

VII. Documentation requirements set forth in Section 511-

Under section 511 of the Rehabilitation Act, 14(c) businesses referred to as "employers" are prohibited from hiring any individual with disabilities who is 24 years of age or younger at subminimum wage, unless the individual has received documentation from Nebraska VR upon completion of all the following activities:

- i. Pre-employment transition services or transition services under the Individuals with Disabilities Education Act (IDEA); and
- ii. Apply for VR services and the individual was determined
 - a. Ineligible for VR services .
 - b. Eligible for VR services, had an approved IPE and the individual was unable to achieve an employment outcome in competitive, integrated employment after a reasonable period of time, and his/her case was closed.
- iii. Career counseling and information and referral services to federal and state programs to help the individual discover, experience and attain competitive integrated employment and the counseling and information was not for employment at sub-minimum wage.

These requirements should be shared with the LEAs, parents, guardians, teachers and students and discussed during IEP meetings for transition planning within the timelines identified as specified under 34 CFR part 397. Any services identified above must be documented by the LEA and provided to the student and Nebraska VR.

If a student, with a disability or, as applicable, the student's parent or guardian, refuses through informed choice to participate in the activities required by section 511 or the implementing regulations in part 397, documentation must be provided by Nebraska VR. The documentation must contain those details listed in 397.10(a)(2).

VIII. Assurances that the SEA nor a LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act

Neither the NDE Office of Special Education nor a LEA in Nebraska will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of operating a program under which a youth with a disability is engaged in work at a subminimum wage.

IX. Amendments

This agreement may be amended at any time upon mutual consent of the parties. Any amendment must be in writing and signed and dated by the parties.

X. Term

This agreement shall be effective from January 1, 2021 through December 31, 2021. The parties upon mutual consent and in writing may renew this agreement for any number of two year extensions.

Signatures:

 <u>Lindy Foley (Feb 3, 2021 07:19 CST)</u>	Feb 3, 2021
Lindy Foley, Director of Nebraska VR	Date
 <u>Amy Rhone (Feb 3, 2021 08:52 CST)</u>	Feb 3, 2021
Amy Rhone, Director of Special Education	Date
 <u>Steve Milliken (Feb 4, 2021 12:21 CST)</u>	Feb 4, 2021
Steve Milliken, Deputy Commissioner	Date