

**Joint Agreement for the Coordination of Transition Services  
between the New York State Education Department (“NYSED”)  
Adult Career and Continuing Education Services–Vocational Rehabilitation  
 (“ACCES-VR”) and Office of Special Education (“OSE”)**

**Parties Involved/Authority**

This agreement reflects federal requirements (Section 612(a)(12)) of the Individuals with Disabilities Education Act (“IDEA”) 2004 and Title IV Section 101(a)(11)(D) of the Rehabilitation Act of 1973 (the “Rehabilitation Act”) as amended by Workforce Innovation and Opportunity Act (“WIOA”) and provides an overview of the purposes, objectives, and joint responsibilities of each party in the provision of transition services for students with disabilities, as well as pre-employment transition services for students with disabilities.

Through this agreement, ACCES-VR and OSE hereby define their relationship, including their respective roles and responsibilities to students with disabilities.

**Purpose**

ACCES-VR and OSE share responsibility to prepare students with disabilities for successful competitive integrated employment. The purpose of this agreement is to facilitate and foster a common understanding of transition requirements and responsibilities, and to build a partnership between ACCES-VR and OSE in order to enable students with disabilities who are eligible, or potentially eligible, for Vocational Rehabilitation (“VR”) services to successfully transition from school to post-school activities, including the receipt of pre-employment transition services, transition services, and other VR services. Specifically, the intent of this agreement is to:

- strengthen shared efforts to prepare students with disabilities for successful community work experiences, careers, and independent living;
- outline a collaborative framework for coordinating State and local services and resources; and
- provide guidance for coordinating plans, policies, and procedures developed to facilitate the transition of students with disabilities from school to post-school activities, including the receipt of vocational rehabilitation services leading to employment.

**Assurances**

This agreement requires the sharing of information, including required documentation and data among ACCES-VR, OSE, and local educational agencies (hereafter referred to as “school districts”). Information about participants of ACCES-VR and students from school districts will be released in conformance with the Family Educational Rights and Privacy Act, IDEA, and the regulations that implement the Rehabilitation Act governing confidentiality of personally identifiable information.

**Construction Clause**

Nothing under Title I of the Rehabilitation Act will be construed to reduce the obligation under IDEA of a school district or any other agency to provide or pay for any transition

services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education (“FAPE”) to students with disabilities in New York State.

### **Consultation and Technical Assistance**

ACCES-VR and OSE will provide consultation and technical assistance to school districts in planning for the transition of students with disabilities from education and transition services in school to post-school activities, including VR services. Consistent with federal and State regulatory requirements for both ACCES-VR and OSE, consultation and technical assistance include:

- providing guidance and professional development to educational and VR personnel responsible for facilitating the transition planning process and the development and coordination of student individualized education programs (“IEPs”) and individualized plans for employment (“IPEs”);
- providing information about each agency’s roles and responsibilities, including financial responsibilities, and the State lead agencies and qualified personnel responsible for transition services;
- coordinating efforts to satisfy the documentation requirements set forth in Title IV of the Rehabilitation Act regarding students with disabilities who are considering subminimum wage employment as a post-high school option (Section 511) and pre-employment transition services (Section 113); and
- establishing policies and procedures to facilitate the transition of students with disabilities including outreach to and identification of students with disabilities who need pre-employment transition services and or transition services.

### **Transition Planning**

ACCES-VR and OSE will work in collaboration with school districts and other State and local agencies to ensure a coordinated approach to the provision of transition services, including special education and related services, as required under IDEA. While local school districts are responsible for providing transition services to facilitate the movement of students with disabilities from school to post-school activities, including but not limited to post-secondary education, vocational education, employment, continuing and adult education, adult services, independent living, and community participation, ACCES-VR can provide pre-employment transition services and transition services that involve preparing students for competitive integrated employment.

### **Roles and Responsibilities**

For students with disabilities who are eligible or potentially eligible for VR services also receiving transition services under IDEA:

- School districts have the primary planning and programmatic responsibilities for the provision of transition services for their students;
- School districts are financially responsible for transition services mandated for school districts under IDEA and its implementing regulations;

- School districts are responsible for the coordination of educational programs, including transition planning, programs, and services, that prepare students with disabilities for adult living, learning, and earning;
- With student and parental consent, as appropriate, ACCES-VR district office staff will be informed of students who may require pre-employment transition services, transition services, or other VR services and will have the opportunity to participate in the transition planning for such students;
- Referrals for pre-employment transition services and referrals and applications to ACCES-VR for VR services will be made in accordance with procedures outlined in the ACCES-VR Student and Youth Transition Services Procedures (421.00 P);
- ACCES-VR is fiscally responsible for providing VR services that are not otherwise mandated through special education requirements, in accordance with ACCES-VR policy;
- ACCES-VR and OSE will work together to implement consistent policies and procedures for transition planning and services, including, but not limited to, student referral and access to VR services, including pre-employment transition services and transition services;
- ACCES-VR and OSE will work in collaboration with school districts and other State agencies to ensure a coordinated approach to the provision of all transition services, to eliminate the duplication of assessments, services, and reporting requirements, and to promote increased access to work-based learning opportunities for students with disabilities;
- ACCES-VR and OSE will work in collaboration with Independent Living Centers to enhance their role in working with students with disabilities, their families, and educational personnel during the transition planning and service delivery process;
- When coordinating services through the IEP and IPE, the student and, as appropriate, the student's family, are the primary sources of information regarding the student's needs, goals, and services.

### **Joint/Shared Responsibilities**

On a central administration level, ACCES-VR and OSE share joint responsibility for the following:

- Meeting regularly to address systems, policy, practice, and funding issues that facilitate or impact the transition of students with disabilities from school to work and/or post-secondary education and training;
- Minimizing redundant services and maximizing resources in both systems;
- Posting this agreement on their respective websites and disseminating it to key stakeholders;
- Assuring assistance to students with disabilities in achieving competitive integrated employment to the maximum extent possible;
- Collaborating on the development, review, and distribution of memoranda and other guidance materials regarding the provision of transition services and pre-employment transition services to students with disabilities and requirements regarding students seeking or continuing in sub-minimum wage upon high school exit, including data identification and collection;

- Working with ACCES-VR and OSE-funded specialists to develop procedures for outreach and identification of students with disabilities who need pre-employment transition services and transition services;
- Sharing training materials and extending invitations to trainings;
- Collaborating to ensure alignment of the IEP with the IPE by providing guidance to education and vocational rehabilitation personnel for facilitating the transition planning process and the development and coordination of IEPs and IPEs; and
- Modifying this agreement as necessary. Any such modifications shall be in writing and signed by all parties to this agreement.

### **Procedures for Outreach**

- ACCES-VR counselors will work with local school districts to identify students, facilitate the referral and application processes for students with disabilities between the ages of 14-21 who are potentially eligible for VR services, and ensure that a referral for pre-employment transition services includes the following data elements: unique identifier, or social security number; date of birth; race; ethnicity; and disability.
- ACCES-VR will assign vocational rehabilitation counseling personnel to liaison relationships with school districts to develop and maintain collaborative approaches to outreach, transition planning, and referral development and tracking; and
- ACCES-VR will make school district personnel, students, and their families, aware of the vocational rehabilitation program and its purpose, including VR eligibility requirements (in accordance with 34 CFR 361.42), the application procedures, and scope of services (in accordance with 34 CFR 361.48) that may be provided to all eligible individuals.

### **Responsibilities of the Office of Special Education**

OSE shall undertake the following responsibilities with respect to the education and transition planning for students with disabilities:

- Designate OSE personnel to provide technical assistance, consultation, and the development of statewide program strategies and procedures applicable for students with disabilities;
- Assure that school districts are implementing the special education requirements for transition services as specified in IDEA and Part 200 of the Regulations of the Commissioner of Education, including, as appropriate, documenting on a student's IEP any services provided by ACCES-VR and its approved community-based providers and, with the consent of the parents or consent of a student 18 years of age or older, inviting participating agencies, such as ACCES-VR, to the Committee on Special Education meeting if likely to be responsible for providing or paying for transition services;
- Continue to fund a network of professional development specialists focused on assisting school districts with implementing effective transition planning, programs, and services;

- Promote access, as appropriate, for students with disabilities to career and technical education and work-based learning experiences;
- Provide technical assistance to VR personnel through formal and informal training, joint problem solving, and exchange of information on policies and procedures;
- Designate OSE staff to participate on the ACCES-VR State Rehabilitation Council and relevant subcommittees;
- Ensure the participation of at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities on OSE's Commissioner's Advisory Panel for Special Education; and
- Facilitate the identification and referral of students between the ages of 14 and 21 in need of VR services, including pre-employment transition services starting at age 14.

### **Responsibilities of Adult Career and Continuing Education Services - Vocational Rehabilitation**

ACCES-VR shall undertake the following responsibilities with respect to transition planning and vocational rehabilitation services for students with disabilities:

- Facilitate and coordinate the smooth transition of students with disabilities ages 14-21 from school to post-school activities, including the receipt of pre-employment transition services, transition services, and other vocational rehabilitation services;
- Designate vocational rehabilitation personnel to be responsible for the provision of technical assistance and consultation to educational agencies, and the development of statewide program strategies and procedures applicable for students with disabilities, including pre-employment transition services available to students 14-21 years of age, regardless of whether the student has applied or been determined eligible for ACCES-VR services;
- Continue to collect pre-employment transition services required data elements and track data about eligibility for vocational rehabilitation services and information about employment outcomes for students with disabilities;
- To assist student applicants, the ACCES-VR counselor designated by the local ACCES-VR district office will work with designated school personnel, parent and/or the student to obtain the signed application for VR, the confidentiality release form(s), and necessary available school records needed to determine eligibility. Students can directly apply for services with ACCES-VR without a referral from the school. If the student is 18 or older and has no legal guardian, the student can make this application independently;
- Eligibility decisions are made within 60 days of application;
- Develop IPE with eligible student participants within 90 days from the date of eligibility determination and prior to exit from high school, approved via signature of the student (and parent/guardian if student is under 18 years of age) and ACCES-VR counselor, prior to the student exiting school;
- Collaborate with school district personnel to obtain student participants' available transition documents (e.g., Annual Guidance Review, Career Plan, Records of work-based learning experiences, Employability Profiles, Student Exit Summary);

- Collaborate with school district personnel to enhance work-based learning experiences and assist students with disabilities per specific guidelines set by United States Department of Labor and United States Department of Education regarding tracking of hours completed;
- Provide technical assistance on vocational rehabilitation to school district personnel through formal and informal training, joint problem solving, and exchange of information on policies and procedures;
- Track agency data to improve collaboration efforts, vocational rehabilitation services, and employment outcomes; and
- Track each student in receipt of pre-employment transition services and each service received.

### **WIOA: Section 511 Subminimum Wage**

Under section 511 of the Rehabilitation Act, as amended by WIOA, a section 14(c) certificate holder under the Fair Labor Standards Act is prohibited from employing any student with a disability who is 24 years of age or younger at subminimum wage, unless such individuals have had opportunities and access to information and services to assist them in achieving competitive integrated employment. The certificate holder needs documentation of the student's completion of all the following activities:

- Pre-employment transition services under the Rehabilitation Act, as amended by WIOA, or transition services under IDEA; and
- Application for VR services with one of the following results:
  - the individual was determined ineligible for VR services; or
  - the individual was found eligible for VR services, had an approved IPE, and was unable to achieve an employment outcome in competitive integrated employment after a reasonable period, and his/her case was closed; and
- 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.

ACCES-VR and OSE have a shared understanding of assurance that neither OSE nor the school district 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 student with a disability is engaged in work at a subminimum wage.

### **Responsibilities under WIOA Section 511**

- ACCES-VR will provide technical assistance and consultation to school district personnel about the regulatory requirements of Section 511 regarding students seeking or continuing subminimum wage employment;
- School district personnel will refer a student with a disability known to be seeking subminimum wage employment to ACCES-VR;
- ACCES-VR will develop an IPE for eligible students which will include a specific employment goal consistent with competitive integrated employment, pre-employment transition services, and other services necessary to reach that goal

within a reasonable period as defined in 34 CFR 397.20(b)(3)(i), 307.20(b)(3)(ii), and 397.20(a)(2)(ii)(A);

- ACCES-VR will collaborate with school districts to establish a procedure to identify students with disabilities interested in seeking or continuing subminimum wage employment and work cooperatively to ensure that the student, prior to beginning work at subminimum wage, has obtained documentation indicating completion of the required activities identified in section 115 of WIOA and transition services provided under IDEA. ACCES-VR and the school district will retain copies of the documentation in a manner consistent with the requirements of 34 CFR 397;
- ACCES-VR and school districts will work cooperatively to ensure that students participate in the required services and obtain the proper documentation to maintain subminimum wage employment, including:
  - Receipt of pre-employment transition services and/or transition services provided by each;
  - Record of eligibility or ineligibility for VR services;
  - Record of IPE and case closure; and
  - Record of career counseling and information and referral services as described above.

### Agreement Review

This agreement will be reviewed annually. The terms of the agreement may not be waived, altered or modified in any manner except with written agreement from both parties.

By signing below, the signatories agree to these terms and conditions on behalf of their respective offices.



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Kevin Smith  
Deputy Commissioner  
Adult Career and Continuing Education  
Services



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Kimberly Young Wilkins  
Deputy Commissioner  
P-12 Instructional Support

April 21, 2020

Date

April 21, 2020

Date