

# Welcome!

Some webinar etiquette:

- Please ***type the name of your Parent Center or organization*** in the “Chat” box on the left hand side of the screen.
- All ***phones will be muted*** during the presentation.
- Please ***use the Chat box*** or the “Raise Your Hand” icon, if you have a question or comment.



**RAISE**

# **School to Sheltered Workshop Pipeline**

2015 RAISE Webinars

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The National Resources for Access Independence Self-determination and Employment (RAISE) Technical Assistance Center is funded by the U.S. Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitative Services Administration



**What Is It?**

**School-to-Sheltered Workshop  
Pipeline  
(SSWP)**

# Sheltered Workshops

- Typically large, institutional facilities
- People typically paid less than minimum wage—sometimes only pennies an hour
- Very little or no contact with people who do not have disabilities, other than supervisors/staff of the program
- Often work is very repetitive

# SSWP—how does it happen?

- Schools never provided a variety of integrated transition services, including employment preparation—the three “F’s”
- Parents place students directly in sheltered workshops
- VR agencies presume some students are too severely disabled to be competitively employed without doing a proper assessment



# Strategies to Address SSWP

# Fully Implement Transition Requirements

**IDEA Strategies**

# OSEP Policy Letter

- If IEP Team determines work placement is appropriate for student, it must be included in student's IEP
- LRE applies to employment portion of IEP as much as to any other part of their program
- Before student could be placed in segregated employment program, IEP Team must consider any needed supplementary aids and services
- Appropriate job training and supports, such as job coaches, could meet definition of supplementary aids and services a school would have to provide in an integrated work placement as an alternative to segregated work placement



The logo for RAISE (National Resources for Access Independence Self-determination and Employment) features the word "RAISE" in a bold, white, sans-serif font with a black outline. The text is centered within a black rectangular box that has a decorative, orange-brown border with a repeating geometric pattern.

# ADA and Section 504 Strategies

Based on the “integration  
mandate”

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# ADA/Section 504 Integration Mandate

- Section 504 covers programs receiving federal funds
- ADA (Title II) covers services provided by state and local governments, including schools and state agencies
- Services are to be provided in the most integrated setting appropriate
- Olmstead case—Supreme Court held that

# Integration Mandate--RI

- The Justice Department applied the ADA to the Birch Vocational Program, a sheltered workshop within a high school, in Providence Rhode Island.
- The Justice Department found that, for almost 40 years, Birch had been servicing almost all Providence students who had intellectual or developmental disabilities.
- Of these students, only a handful did not land in a segregated employment setting.
- The Birch program offered almost no appropriate transition services and did not link students to integrated postsecondary services such as supported employment.

# Integration Mandate--RI

- Instead students were all but guaranteed to find themselves at Training Thru Placement, another sheltered workshop, upon aging out of public school.
- The city and the school district had funded and administered transition services that functioned like a pipeline from Birch to Training Thru Placement.
- Many Birch students could have worked in integrated settings with appropriate supports but were never offered that opportunity.

# Integration Mandate--RI

- And the Rhode Island vocational rehabilitation agency “had established no presence at Birch and that no vocational rehabilitation counselors presently service the program.”
- Accordingly, the DOJ found that the Birch program was funneling students into Training Thru Placement through a lack of transition services in violation of the ADA and the IDEA
- State ordered to implement a comprehensive overhaul of its systems

# Integration Mandate--OR

- Lane case—district court judge found that the ADA integration mandate applied to the State's sheltered workshop programs
- DOJ found that OR over relied on sheltered workshops
- Parties entered into a comprehensive settlement requiring a complete overhaul of State's sheltered workshop system
  - Moving people into competitive integrated employment
  - Cease funding sheltered workshops for people not currently in sheltered workshops

The logo for RAISE (National Resources for Access Independence Self-determination and Employment) is displayed in a stylized, white, blocky font with a black outline. The text is set against a dark background within a rectangular frame that has a glowing orange border.

# WIOA Strategies

Using VR Requirements to  
Avoid Sheltered Workshops

# Ineligibility Determinations

- If an individual meets the other eligibility criteria he or she is presumed to be able to benefit from VR services.
- The state VR agency can overcome this presumption only by showing by **“clear and convincing”** evidence that the individual could not benefit from VR services.
- This is a VERY high standard, just below “beyond a reasonable doubt”—“a high degree of certainty.”



# Ineligibility Determinations

- **How is ineligibility determined?**
  - Assessment of ability to work through use of **trial work experience**, in realistic work settings, to assess the individuals abilities to work
  - Must provide appropriate supports
  - TWEs must be of sufficient variety and sufficient length of time to make determination
  - WIOA: TWEs must encompass several “different” experiences

# Ineligibility Determinations

- Following ineligibility determination:
  - VR must review the determination within 12 months.
  - If requested by the applicant or representative, VR must conduct an annual review of the determination thereafter

## **WIOA: Clear Definition of “Competitive, Integrated Employment”**

- Although used extensively throughout the Rehab Act, this term was never actually defined.
- The optimal employment outcome under WIOA
  - Full or part-time work at minimum wage or higher
  - Wages and benefits similar to those without disabilities performing the same work
  - Fully integrated with co-workers without disabilities
  - Equal opportunities for advancement

## Clear Definition of “Customized Employment”

- Customized employment is now considered a legitimate employment outcome that can be provided/supported by VR
  - Competitive, integrated employment
  - For an individual with a significant disability
  - Based on an individualized determination of the individual’s “strengths, needs and interests”
  - Designed to meet the specific abilities of the individual and the business needs of the employer
  - Carried out with “flexible strategies”

# VR's Increased Role in Transition

- Each VR office must also work with local schools and workforce development programs to ensure VR's appropriate involvement in transition-related activities

# VR's Increased Role in Transition

- 15% of each state's public VR funds must now be used "pre-employment transition services":
  - Job exploration counseling
  - Work-based learning experiences
  - Self-advocacy training
  - Counseling on post-secondary opportunities
- No specific employment goal has to be identified to allow a VR client to participate in transition or pre-transition activities—projected employment goal

# Section 511: Subminimum Wages

- Effective two years from enactment—July 22, 2016
- No entity – including a contractor or subcontractor of the entity – who holds a 14(c) certificate may compensate an individual with a disability who is age 24 or younger a “subminimum wage” unless *one of the following conditions is met*:
  - The individual is currently employed by an entity that holds a valid 14(c) certificate

# Section 511: Subminimum Wages

- The individual provides proof that each of the following steps have been completed:
  - The individual has received pre-employment Transition services
  - The individual has applied for Vocational Rehabilitation (VR) services



# Section 511: Subminimum Wages

- The individual has been found **ineligible** for VR services  
or
- The individual has been found **eligible** for VR services and has an IPE. He/she has been working toward an employment outcome for “a reasonable period of time” without success and the VR case is closed.
- The individual has also been given career counseling and I&R to enable him/her “to explore, discover, experience and attain” competitive, integrated employment and such counseling/referrals are not for subminimum wage employment opportunities.

# Section 511: Subminimum Wages

- These actions should be carried out every 6 months for the first year and every year thereafter for the duration of the subminimum wage employment.

# Section 511: Subminimum Wages

- If the individual is a student with a disability, the receipt and completion of the required activities shall be documented by the VR agency or by the appropriate school official responsible for the provision of transition services.
- VR should provide the final documentation showing the completion of the student's pre-employment transition services within a "reasonable time" following its completion.

# Section 511: Subminimum Wages

- In order to continue to employ an individual at a subminimum wage, the entity shall verify completion of the necessary requirements, including the review of any relevant documents provided by the individual and the entity shall maintain copies of the documentation.
- The entity shall be subject to review of individual documentation by a representative from the VR agency or from the Department of Labor at a time and in a manner necessary to fulfill the intent of this section.

**Questions?**

Please complete our  
evaluation survey!

**<http://tinyurl.com/2015-10-RAISE-Webinar>**

# Upcoming webinars

- Nov 17: A New Vision for Career Development: What Families Need to Know
- 
- Jan 19: Helping Youth Learn Work Skills: What Families Can Do
- 
- Feb 16: Helping Youth Learn Soft Skills: What Families Can Do



Oh,  
and by the way,

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evaluation survey!

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