

§ 397.31

34 CFR Ch. III (7–1–18 Edition)

action required by this part, must be provided to the DSU within 5 calendar days of the youth's refusal to participate.

(2) When the educational personnel transmits the last documentation to the designated State unit regarding the services provided to the youth under paragraph (a) of this section, the educational personnel must provide a cover sheet that itemizes the documentation that has been provided to the designated State unit regarding that youth.

(d) The educational agency must retain a copy of all documentation provided to the designated State unit under this section in a manner consistent with the requirements of 2 CFR 200.333.

(Authority: Sections 12(c), 511(a)(2)(A), and 511(d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 794g(a)(2)(A), and (d))

§ 397.31 What are the contracting limitations on educational agencies under this part?

Neither a local educational agency, as defined in § 397.5(b)(1), nor a State educational agency, as defined in § 397.5(b)(2), may enter into a contract or other arrangement with an entity, as defined in § 397.5(d), for the purpose of operating a program for a youth under which work is compensated at a subminimum wage.

(Authority: Section 511(b)(2) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 794g(b)(2))

Subpart E—Designated State Unit Responsibilities to Individuals With Disabilities During Subminimum Wage Employment

§ 397.40 What are the responsibilities of a designated State unit for individuals with disabilities, regardless of age, who are employed at a subminimum wage?

(a) *Counseling and information services.* (1) A designated State unit must provide career counseling and information and referral services, as described in § 397.20(a)(3), to individuals with disabilities, regardless of age, or the individual's representative as appropriate, who are known by the designated State

unit to be employed by an entity, as defined in § 397.5(d), at a subminimum wage level.

(2) A designated State unit may know of an individual with a disability described in this paragraph through the vocational rehabilitation process, self-referral, or by referral from the client assistance program, another agency, or an entity, as defined in § 397.5(d).

(3) The career counseling and information and referral services must be provided in a manner that—

(i) Is understandable to the individual with a disability; and

(ii) Facilitates independent decision-making and informed choice as the individual makes decisions regarding opportunities for competitive integrated employment and career advancement, particularly with respect to supported employment, including customized employment.

(4) The career counseling and information and referral services provided under this section may include benefits counseling, particularly with regard to the interplay between earned income and income-based financial, medical, and other benefits.

(b) *Other services.* (1) Upon a referral by an entity, as defined in § 397.5(d), that has fewer than 15 employees, of an individual with a disability who is employed at a subminimum wage by that entity, a designated State unit must also inform the individual within 30 calendar days of the referral by the entity, of self-advocacy, self-determination, and peer mentoring training opportunities available in the community.

(2) The services described in paragraph (b)(1) of this section must not be provided by an *entity* as defined in § 397.5(d).

(c) *Required intervals.* (1) For individuals hired at subminimum wage on or after July 22, 2016, the services required by this section must be carried out once every six months for the first year of the individual's subminimum wage employment and annually thereafter for the duration of such employment.

(2) For individuals already employed at subminimum wage prior to July 22, 2016, the services required by this section must be carried out once by July