



## NATIONAL DISABILITY RIGHTS NETWORK

Under contract to the Partnerships in Employment Technical Assistance Center,  
Institute for Community Inclusion, University of Massachusetts Boston



### **Progressive Policies to Support People with Intellectual Disabilities in Meaningful Competitive Employment**

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The National Disability Rights Network was contracted to survey the 57 protection and advocacy (P&A) agencies throughout the United States and territories, including the Native American reservations in the southwest, to ascertain the status of state initiatives on integrated employment for people with intellectual disabilities. Consistent with the goals of our ongoing Employment Initiative, we attempted to gather comprehensive data about efforts around the country to establish progressive policies that improve the opportunities of people with intellectual disabilities to obtain meaningful competitive employment.

We developed eight questions about the typical barriers to integrated employment that may be occurring in states, as well as positive efforts that may be used to increase integrated employment. Our questions focused primarily on existing programs and services to people with disabilities, but we also encouraged comment on additional issues, policies, and practices that we did not identify. We also explored the work of coalitions, advocates, and providers to further the employment of people with intellectual disabilities.

Responses were received from 54 of the 57 P&A agencies. Below you will find a summary of the results.

**1. Is there adequate funding in your state for long-term supported employment for people with intellectual disabilities to ensure that they can receive employment in integrated settings?**

Only 8.8% responded that there was adequate funding in the state for long-term supported employment. 12.8 % responded that they didn't know, and 80% indicated that there was not sufficient money in the state for long-term supported employment for people with disabilities.

Those identifying sufficient funding indicated that federal waiver funds, along with some state and some county-raised money, funded supported employment. Hawaii specifically mentioned vocational rehabilitation (VR) and developmental disabilities. Several other states indicated that although there is funding, it is not being used appropriately for supported employment. Instead, it is used for day programs and sheltered workshops. Utah stated that in order to implement their Employment First initiative, they accessed a state-funded supported employment project with a commitment of \$250,000.

Thirty-five states cited a variety of policy and legislative efforts to address the issue, including coalition work. Employment First initiatives, including proposed legislation, were commonly discussed (14), as was coalition work. Examples of coalition partners included People First, Developmental Disabilities Councils, University Centers for Excellence in Disabilities, divisions of developmental disabilities, APSE, the Alliance for Full Participation, Interagency Transition Partnerships, state partnerships with AIDD funding, and the State Employment Leadership Network. Only three states specifically mentioned work with/and or involvement with their division of vocational rehabilitation.

In addition to states reporting collaboration on policies, Massachusetts, Wisconsin, and Delaware worked on legislation to put Employment First into practice and make changes to labor agency administrative rules. Tennessee is working to align policies, regulations, and funding opportunities. States commented that various disability organizations were advocating for decreased use of the extensive and well-entrenched system of segregated sheltered workshops. A number of P&As are engaged in outreach to employees at these workshops, and many others are organizing self-advocates in summits and other employment initiatives.

**2. Do funding schemes in your state favor placements in segregated settings, for example by paying segregated employers through Medicaid or other state funds?**

64.8% of the respondents reported that segregated placements continued to be the preferred practice. Medicaid was blamed as it is the primary funder for these placements, and pays for day habilitation and pre-vocational services. Funding criteria favors sheltered workshops in lieu of funding integrated employment services for those who want them.

Several states mentioned that clients of their department of developmental services are required to be on a waiver, and that waiver funding pays for adult day training/rehabilitation, including vocational placements. A few states indicated that their department of developmental services funds day programs and sheltered workshops, paying large providers for the same segregated services year after year. One reason for this was the strong opposition from providers when conversion to an integrated employment model was suggested.

Some states clarified that while funding schemes may not “favor” segregated services they do allow it, and a fair percentage of state Medicaid and developmental disabilities funds go to segregated settings. In Kentucky, some regions have a local tax that funds sheltered workshop settings. Billing opportunities are much greater for segregated settings, as it allows for lower staff-to-client ratios than supported employment or job coaching.

States affirmed that there is a well-established relationship between state VR and the system of rehabilitation facilities, which operate segregated sheltered workshops. Using sheltered workshops is easy and popular with families, as these facilities are well known and respected in their communities. These settings already exist; it is considered easier to place people there than to find them jobs in the community.

Mississippi stated that the VR program channels about 20% of their clients (and most who are entering the work force for the first time) through Ability Works centers, which resemble sheltered workshops and are considered “assessment” and “pre-vocational” settings. They further stated that many people exit Ability Works (when their pre-vocational time is over) without having secured work in the community.

Wisconsin's Division of Vocational Rehabilitation (DVR) is still permitted to place eligible clients in segregated, subminimum wage settings for "pre-vocational training." Unfortunately, people placed there are rarely further served by DVR, and end up staying in sheltered work environments indefinitely. The West Virginia legislature earmarks several hundred thousand dollars a year for sheltered workshops, and requires its VR agency to administer this money to the segregated facilities.

States indicated a need to develop more community resources so that individuals have more opportunities available to them to work along with their peers without disabilities. Also, there needs to be more pressure put upon on sheltered workshop providers and other employment providers moving individuals into community work settings that may include a variety of incentives. The Wisconsin Survival Coalition obtained an opinion letter from the U.S. Office of Special Education Programs to school districts, stating that districts must make more of an effort to place transition-age youth (16 and older) in supported employment settings. As a result, DVR has initiated a new policy allowing for On-the-Job Training (OJT) and initial placements in supported employment settings for this population. The new policy permits DVR to pay up to 100% of a client's wages in an OJT setting for up to 500 hours.

To respond to these issues, several states are proposing legislation to limit or eliminate sub-minimum wage, moving towards an Employment First model and making sure that it is effectively implemented, redefining waiver services, and looking at options to create more community work opportunities. Eight AIDD Employment Systems Change Grants, the Partnerships in Employment projects for youth and young adults with intellectual and developmental disabilities, are targeting systems change efforts moving government funding away from sheltered workshops and toward customized and integrated employment and post secondary education.

**3. Are parents and people with disabilities in your state adequately informed of available work incentives which would enable a person with an intellectual disability to work in an integrated setting yet maintain needed supports, including health care such as Medicaid or Medicare?**

Only 10.5% of the respondents indicated that there was sufficient knowledge about work incentives to enable individuals with disabilities to use these to work in the community. 14% had no idea and 75% said no. Alaska, Georgia, Maine, Oklahoma, Utah and Wisconsin indicated that their knowledge base was attributed to the educational outreach of the P&A, WIPA, and MIG grants, which have now been severely curtailed because of elimination of funding. However, states are responding to this issue by approaching employment as a collaborative issue and involving state legislatures, DD councils and DD partners, and VR agencies to resolve the information and training needs regarding work incentives

**4. Is your VR agency or agencies over-reliant on the placement of clients in segregated employment settings to receive work adjustment, work development,**

## **or other vocational services?**

Over one third (36.4%) of the respondents indicated that their VR agencies were too reliant on segregated employment settings. When asked how they are addressing this issue, 54.6% of the respondents indicated that P&A staff are advocating with government to help change this undesirable trend. On the positive side, 16.7% of the respondents indicated that there is either proposed or enacted legislation in their state to target VR's continued use of segregated employment settings.

Comments following this question revealed that VR may choose segregated placements "as the path of least resistance" or that "VR must contract with Developmental Disability providers" to "[obtain] these services...and these providers are not involved in competitive, integrated employment settings." Lack of transportation options in some states leads to an over-reliance on segregated Community Rehabilitation Programs, Developmental Disability Training Centers, or similar facilities.

Some respondents did comment that over-reliance on segregated settings was a non-issue in their state. Other states mentioned the development of Employment First policies, as well as Client Assistance Programs and State Rehabilitation Councils, as additional avenues to tackle this problem.

### **5. Does your VR agency or agencies find applicants are "too disabled to benefit from VR services" without adequately using Trial Work Experiences, with appropriate supports, including AT, or otherwise fail to follow VR requirements?**

Almost half (49.1%) of the respondents indicated that VR did not always follow requirements and/or was too quick to declare that the severity of the individual's disability made it impossible for them to benefit from VR services, without adequate use of a Trial Work Experience. On the positive side, 9.2% of the respondents indicated that there is either proposed or pending legislation in their state to target these improper ineligibility determinations.

Continued Client Assistance Program advocacy, implementation of Employment First policies, and collaborations with disability-related coalitions are helping to address this issue.

### **6. Are school districts in your state providing transition-age students with disabilities employment options in the Least Restrictive Environment, with appropriate supports?**

21.4% of the respondents indicated that schools were doing a good job of providing employment options in least restrictive environments (LREs). These included Arkansas, Hawaii, Delaware, Maryland, the Northern Mariana Islands, Nevada, North Dakota, South Carolina, Utah, Vermont, Wisconsin, and West Virginia. But the news was not all good, as there were clarifying comments along these lines: "School districts are supposed to provide these supports to transition-age students. The reality is that most

transition-age students do not have a transition plan and are not prepared to transition from high school to work and/or higher education.” Three states said that transition services varied greatly by district. One state indicated that, while schools frequently fail to provide adequate transition services to students with disabilities, when they *do* offer those services, employment options are provided in the LRE.

Of the 66.1% of respondents who indicated that school districts were not providing services in the LRE, 25 P&A agencies were engaged in legislative, advocacy or coalition work to address this. According to the survey, P&A education and Protection and Advocacy for Beneficiaries of Social Security (PABSS) teams have begun building a coalition to promote solid transition services, including school-sponsored work experiences and full transition planning.

Other efforts include coalitions of legal and disability advocates dedicated to improving special education, working with the Governor’s Council on Disabilities and Special Education and the University Center for Excellence in Disability Education, Research and Service, working with the Parent Training Center, and increased coordination with VR and other advocacy organizations.

**7. Are transition-age students with disabilities referred to VR in a timely way to ensure that there is no gap in services as they transition out of the school system?**

According to P&A agency staff, slightly less than one third (30.4%) indicated that individuals with disabilities are referred to VR in a timely manner. These included Colorado, Delaware, Georgia, Hawaii, Idaho, Kansas, Maryland, Maine, Minnesota, Northern Mariana Islands, Nebraska, Nevada, South Carolina, Texas, Washington, Wisconsin and West Virginia. But once again, clarifying comments indicated that although the referral was made, contact between VR and the student does not always occur. Washington indicated that schools make the referrals to DVR, but this referral may not be adequately explained to parents and students, so the transition may not be smooth.

West Virginia indicated that results vary widely across their 55 counties because, in some regions, VR does not take transition seriously and does not carry through. The age of referral seemed to vary from age 14 to age 18, or “when individuals age out of the school system.” Minnesota reported that VR was taking steps to increase the number of VR counselors in schools and improve connections with school staff and students.

Overall, there was need to encourage better coordination and communication between VR and the school system starting as early with greater recognition and adherence to the Individuals with Disabilities and the Rehabilitation Acts.

**Recommendations for Protection and Advocacy Agencies**

1. Educate legislators and move government funding away from segregated and sheltered facilities to customized and supported employment opportunities that support full inclusion and integration.
2. Help states align policies, regulations, and funding priorities to encourage integrated employment as the primary outcome for people with disabilities.
3. Advocate for increased fee structures for individualized services that support competitive employment.
4. Work to create a Schedule A / Selective Placement employment component in state government (a non-competitive hiring process for individuals with disabilities similar to the Schedule A program in the federal government).
5. Review and revise agency rules in Medicaid Waivers, and develop a rate restructuring proposal with targeted performance outcomes for integrated employment.
6. Insist that states offer technical support to entrepreneurs with disabilities starting their first business, including supported self-employment.
7. Redefine waiver services and restructure rates, policies, and funding mechanisms for competitive employment outcomes. Prohibit billing for “pre-vocational” and other segregated services.
8. Educate VR and other providers on options for community work support, including national service.
9. Monitor the use of local/state/federal money to ensure that spending is consistent with the intent and purposes of the ADA and Olmstead decision and support non-discrimination and full integration of people with disabilities.
10. Remove legislative earmarks for segregated services, and re-designate funding for competitive employment.
11. Advocate for VR agencies to align their services and supports to provide assistance to individuals with the most significant disabilities first, implementing an order of selection if necessary.
12. Fully educate State Rehabilitation Councils on the purposes and intent of the Rehabilitation Act.
13. Use On-the-Job Training, apprenticeships and other service options (including Employment Networks) to place individuals in competitive employment.
14. Help individuals file Equal Employment Opportunity Commission and Office of Civil Rights complaints when they are denied opportunities for community placements

or competitive employment.

15. Advocate for and develop innovative programs to thoroughly assess individual skills and potential for proper job skill identification and job matching, such as person-centered planning.
16. Debunk myths about competitive employment of people with disabilities.
17. Modify state contract preferences so that they cannot be used by employers to bolster segregated employment of people with disabilities.
18. Monitor the use of all 14c wage certificates that pay subminimum wage.
19. File wage and hour complaints with the Wage and Hour Division of the Department of Labor and other authoritative bodies when individuals are not properly compensated for their work.
20. Educate parents, teachers, individuals with disabilities, and the general public about the capabilities of people with disabilities to live, work, and enjoy life in the community—with a strong emphasis on work that includes comparable wages.
21. Educate youth, families, schools, and disability organizations about the full range of employment opportunities available to people with disabilities.
22. Work with parents and schools to require youth with disabilities to engage in integrated work experiences for at least six months before exiting the school system. This gives students an opportunity to expand their knowledge base and gain work skills.
23. Review and monitor the Memorandum of Understanding between schools and the state VR agency to ensure that strong practices are in place for prompt referrals for services.
24. Ensure that protocols for VR referrals are effectively operationalized by the schools, and that referrals include application packets for families to formally request VR services.
25. Develop informational materials for all students receiving P&A assistance on education issues on “what to expect at transition,” including how to access and pursue vocational services. This information should be provided to families and students regardless of the age of the child.
26. Conduct community outreach and education that reinforces high expectations and full inclusion of children with disabilities into all facets of education and community, including employment.
27. Develop and disseminate fact sheets on topics such as using work incentives



from the Social Security Administration, earned income disregards in housing, the Americans with Disabilities Act and employment rights, how and when to disclose disability, assistive technology at school and work, employment services and supports, what to expect from VR, and employment myths.

28. Work with the National Disability Rights Network to identify, locate, and modify existing materials related to youth in transition, VR supports and services, employment law, and the rights and responsibilities of individuals with disabilities. There should be a broad distribution of this information to families, educators, and community organizations, including disability organizations.