

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**PAULA LANE, et al.,**

Case No. 3:12-cv-00138-ST

Plaintiffs,

v.

**KATE BROWN, et al.,**

Defendants.

**UNITED STATES OF AMERICA,**

Plaintiff- Intervenor

v.

**STATE OF OREGON,**

Defendant.

**EXPERT PROGRAM CAPACITY REPORT OF DR. RICHARD LUECKING**

**I. Purpose of the Review**

The plaintiffs in the case, *Lane v Brown*, asked that I conduct a review of the current employment service agencies in Oregon. I was asked to conduct this review in conjunction with another expert consultant, Ruby Moore. The purpose of the review was to assess the interest, capacity, and readiness of existing agencies to provide supported employment, consistent with professional standards, to a large number of new clients. In conducting this review I was also asked to determine the impact of the Executive Order 13-04, and the revised Executive Order 15-01, on the interest, capacity, and readiness of employment service agencies to substantially expand their supported employment services.

## **II. Qualifications**

I have worked in the field of disability services, primarily in the sub-field of disability employment services, since 1972. I am currently the President Emeritus of a national non-profit organization, TransCen, Inc., where I have overseen the development of programs, training and consultation activities, and research in employment for individuals with disabilities since 1987. During the course of my career I have also administered employment service programs for individuals with intellectual and developmental disabilities, developed community based programs for individuals leaving institutional settings, and worked as a state vocational rehabilitation agency counselor.

At TransCen, until my recent (January 2015) change to emeritus status, I administered programs that provide supported employment and other employment development services in California and Maryland. These programs are operated with contracts from the respective state Vocational Rehabilitation agencies and, in California, the Regional Centers that fund services for individuals with intellectual and developmental disabilities (I/DD). Under the auspices of TransCen, I am also currently the Principal Investigator for two national research centers funded by the U.S. Department of Education, National Institute on Disability and Rehabilitation Research: the Center on Transition to Employment for Youth with Disabilities; and the Rehabilitation Research and Training Center on Vocational Rehabilitation Practices for Youth and Young Adults with Disabilities. I have been the Principal Investigator or Project Director of over forty other research and demonstration projects related to employment, supported employment, and transition from school to work for individuals with disabilities.

I have authored or co-authored books, book chapters, articles in refereed professional journals, and numerous monographs on related topics. I have consulted across the country and internationally on these issues. I have also been a policy advisor to the U.S. Department of Labor, Office of Disability Employment Policy (ODEP) where I helped establish its national Employment First initiative. My recent experience also includes serving as an advisor to major national employment, supported employment, customized employment, and school-to-work transition initiatives and research studies.

I am active in related professional organizations and have served on the Executive Board of APSE (formerly the Association for Persons in Supported Employment). My doctorate is in special education, with an emphasis on the transition from school to work for youth with disabilities. My curriculum vitae (CV) detailing my education and experience is attached in Appendix 1.

## **III. Methodology**

I worked with another subject matter expert, Ruby Moore, to determine the key components to assess program capacity of programs under contract from the Oregon Office of Developmental Disabilities Services (ODDS) to provide vocational services that featured integrated employment. As the guiding definition of integrated employment, we used that provided by the U.S. Department of Labor, Office of Disability Employment

Policy (ODEP): “Integrated employment refers to jobs held by people with the most significant disabilities in typical workplace settings where the majority of persons employed are not persons with disabilities. In these jobs, the individuals with disabilities earn wages consistent with wages paid workers without disabilities in the community performing the same or similar work; the individuals earn at least minimum wage, and they are paid directly by the employer.”<sup>1</sup>

We based our review on key components of generally accepted contemporary effective practice in supported and integrated employment for individuals with significant disabilities as published by APSE<sup>2</sup>, ODEP<sup>3</sup>, and Dartmouth College<sup>4</sup>. These components include the following:

1. Assessment and career planning: a person-centered ongoing assessment process that provides the framework for individualized job search and job matching. In effective practice, this planning, sometimes called “discovery” or vocational assessment features: identifying strengths, rather than focusing on deficits or disability label; uncovering interests that will inform the job search; and determining the types of supports or accommodations necessary for the individual to participate in employment and to perform specific job tasks.
2. Staff training and competencies: effective staff receive training and are supported to facilitate pre-employment assessments, use the information obtained during the assessment to support individualized job search, network and negotiate with prospective employers, and provide post-hire follow up and support for the employee and employer to ensure work performance is satisfactory to the employer.
3. Individualization: Effective job matches and longer job tenure are more likely when job search and job development is individualized, based on the job seeker’s unique characteristics. This also means that the result of the job search is a job in a typical workplace the majority of workers are not persons with disabilities, per the ODEP definition of integrated employment. Enclaves or groups of individuals with disabilities working in the same place and performing the same tasks as an identifiable group do not represent individualization or effective practice.
4. Integration: The ODEP definition of integration applies here. In addition, effective integration will reflect a “typicalness” of job features and job status. That is, the employee with a disability will have the work experiences of others doing same or similar work in terms of working conditions such as pay, benefits, access to workplace amenities, and so forth.
5. Organizational structures that support effective practice and integrated employment outcomes: Organizations that are effective in producing integrated employment

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<sup>1</sup> Integrated Employment, retrieved from <http://www.dol.gov/odep/topics/IntegratedEmployment.htm>

<sup>2</sup> Supported Employment Competencies, APSE, retrieved from <http://www.apse.org/policy-advocacy/position-papers/>

<sup>3</sup> Customized Employment Competency Model, ODEP, retrieved from <http://www.dol.gov/odep/topics/CustomizedEmployment.htm>

<sup>4</sup> Dartmouth College (2008), “Supported Employment Fidelity Scale,” retrieved from <http://www.dartmouth.edu/~ips/page19/page21/files/se-fidelity-scale002c-2008pdf>

outcomes will structure their service to support integrated employment outcomes and deploy staff who are trained and supported to perform tasks related to each of the previously stated components. Additionally, effective organizations will document service delivered in support of integrated employment and use data to track outcomes which in turn are used as a management tool to continuously improve integrated employment outcomes.

We developed a series of questions to probe the presence of each component in the operation of the programs to be reviewed. In addition, for our review we wanted to determine the specific influence on present and projected service provision presented by the Executive Order. To gauge the impact of the Executive Order we focused on these issues, among others:

- Staff: how has the Executive Order (EO) influenced staff training, staff supervision, staff performance, and staff competencies issued by ODDS?
- Shifting resources to competitive employment: has the state made additional incentives, resources, guidance, and technical assistance to shift resources from sheltered to individual employment?
- Quantity and quality of employment services: What effect has the EO had on:
  - Quantity and quality of vocational assessments?
  - Number of people involved in the discovery process?
  - Number of people on Path to Employment?
  - Type and quality of job development activities?
  - Type and quality of job coaching activities?
  - Number of youth transitioning from school to supported employment?
- How has the EO affected relationships with the Office of Vocational Rehabilitation Services (OVRs)?
- How has the EO affected relationships with the local school districts?
- How has the EO affected relationships with the Office of Developmental Disabilities Services (ODDS)?
- How has the EO affected reporting and data collection?
- How has the EO affected payment for various employment-related services (i.e., discovery, assessments, job development, job coaching, individualized supported employment, group supported employment, supports for non-work activities), including new rates under waiver amendments and ReBAR process?
- How has the EO affected planned expansion of employment services?
- How has the EO affected transformation of your organization to move from sheltered employment to supported employment services?

In order to best assess program capacity variables and Executive Order influence, we made the decision to visit all programs that, based on available state data, provided, or substantially provided, supported employment service in integrated settings as their only employment option. In addition, we decided to visit a randomly selected pool of other

employment programs that also provided segregated services, that is, sheltered work (SW) and/or alternative to employment (ATE) programs (now labeled Day Services Activities). A research expert determined the number of such programs needed to achieve reliable conclusions about the system of ODDS employment services in Oregon as a whole. The research expert then randomly selected the specific programs.

The plaintiffs provided me with a list of the specifically and randomly selected programs, and arranged visits to each during the weeks of September 29, 2014 and February 2, 2015.

#### **IV. Materials Reviewed**

For this report I reviewed ODDS employment data from its Employment First website on each program visited, data on clients in the Comprehensive Waiver served by each program, selected client records, information from each program's website where available, and materials provided by the programs during my visits.

I also reviewed general background information on Oregon's employment services system, including the documents listed in Appendix 2.

#### **V. Programs Visited**

- A. The following lists and briefly describes each of the programs I visited during September 2014.

##### Pam's Clean Machine

Pam's Clean Machine is an incorporated Oregon Domestic Corporation, the principal address for which is 20702 E Cannon Rd, Brightwood, OR 97011. Its business is concentrated on providing contracted janitorial services to commercial businesses. It has a contract with ODDS to serve individuals with disabilities who are employed by Pam's Clean Machine to fulfill its janitorial service contracts. At the time of the visit, Pam Baker, the proprietor, reported serving 15 individuals with I/DD. Seven of the 15 individuals were working on cleaning contracts at two different businesses. A separate group of individuals worked in each location, earning wages paid by Pam's Clean Machine based on time studies. All 7 worked 20 hours/week, earning sub-minimum wage based on productivity time studies as allowed by law.

The remaining individuals were engaged in various activities at the headquarters location, including practicing janitorial tasks, and engaging in recreational and leisure activities. There are four total staff members in addition to Ms. Baker. One serves as administrative support for the organization as well as the supervisor of a total of 3 job coaches.

### EastCo Diversified Services

EastCo Diversified Services is a non-profit organization headquartered at 215 SW Wallula Avenue, Gresham, OR 97080. It operates a range of services for individuals with I/DD, including residential, recreational, and employment services. The latter service includes a sheltered workshop, group supported employment, and individual supported employment. A total of 22 individuals were reported to be in supported employment, including 12 at one business who rotate through an enclave assignment (5 at any given time), 5 who work in a silk screen business and the remainder in individual job placements.

The supported employment program staff includes three full time job coaches and one full time program coordinator.

### Goodwill Industries of the Columbia Willamette

An affiliate of Goodwill International, Goodwill Industries of the Columbia Willamette operates stores and services at 26 locations. I visited the programs as its headquarters location at 1943 SE Sixth Avenue, Portland OR 97214. At all its locations, Goodwill operates retail thrift stores. Most locations also offer employment for people with various barriers to employment in these stores and their related operations. Job search programs, called Job Connections, are available to selected clients, but people with I/DD do not typically participate in these programs. At the Sixth Avenue location, Goodwill also offered ATE day services in a separate building.

In all of its locations it was reported that over 190 individuals with I/DD were working in supported employment under the past ODDS definitions, including a very small number in integrated individual jobs and the rest (over 180) in supported employment enclaves. All of these enclaves are comprised of up to 8 individuals working together within a section of the Goodwill operation, typically either in the store stocking shelves or in the receiving area sorting merchandise. They are paid sub-minimum wage by Goodwill based on a productivity rating allowed by law.

Individuals were supported by staff called Integration Specialists. One staff is assigned to each group enclave, thus supporting the work of between 5 to 8 individual clients at a time.

### Bethesda Lutheran Communities

Bethesda Lutheran Communities is a non-profit organization serving individuals with I/DD in several states. I visited the headquarters of its Oregon affiliate located at 831 SW 17th Ave, Portland, OR 97205. Services offered in Oregon include residential services, ATE day services, community engagement, and employment services. Employment services include group and individual supported employment.

Senior leadership was not available during my visit. A job developer provided information about supported employment services as follows: there are approximately 30 individuals preparing for supported employment placements or in a job currently. It was not stated how many of the 30 were in job search preparation or in jobs. All of the individuals who are employed were reported to be in individual placements. They are served by two job developers and three job coaches who are supervised by an Area Director. It was not clear from the discussion whether these individuals were assigned to the supported employment program full time or part time, so an exact ratio of staff to clients could not be determined. A new quota system for job developers is being implemented that is expected to yield 12 new placements this year that last 90 days or longer.

#### Community Access Services

Community Access Services is a private nonprofit organization that offers residential, employment, and ATE services to adults with intellectual and developmental disabilities. I visited the main office of Community Access Services at 1815 NW 169th Place, Suite 1060, Beaverton, Oregon 97006. It was reported that 36 individuals are served in what the agency calls "vocational services," at least one-half of whom are served in its recently established supported employment department. These individuals were reported to be in various stages of the employment search. At the time of the interview, it was reported that 4 individuals worked in a general maintenance enclave, 5 in individual placement jobs, and 2 individuals were supported in their own business. All individuals in supported employment program who are working earn minimum wage or above in their jobs.

Community Access Service currently employs 2 full time job developers and has the intention to hire a third due to increasing demand for its services from OVR and ODDS. There is a full time supported employment service manager. Job coaches are hired on an as needed basis and therefore work less than full time.

#### Community Vision, Inc.

Community Vision is a private non-profit organization located at 1750 SW Skyline Blvd., Suite 102, Portland, OR 97221. It offers a network of services, including supported living, homeownership, asset development, and employment services. All of its programs are community based. Although in operation for over 25 years, the organization's supported employment program is relatively new, under 5 years old. It reported serving 22 individuals who were in supported employment jobs, where the hours they worked ranged from 1 to up to 15 hours per week. Each of the jobs are fully integrated community jobs where individuals are paid at or above minimum wage by their employer.

Community Vision employs one full time Director of Employment, one full time job developer, two part time job developers and 4 part time job coaches. Residential staff

provides additional ad hoc job coaching support in order to insure adequate support coverage.

- B. The following lists and briefly describes each of the programs I visited during February 2015.

#### Coast Rehabilitation Services

Coast Rehabilitation Services is a private non-profit organization that supports more than 120 individuals with developmental disabilities in various residential, vocational and community participation programs in Clatsop and Multnomah Counties, Oregon and in one county in Washington state. Coast provides employment related support for 63 individuals with disabilities in Clatsop County. I met with senior program leadership at the headquarters location at 89451 Hwy 101, Warrenton, Oregon 97146. Of the 63 clients in the employment program, they reported that 23 individuals are employed in several group supported employment enclaves, including a yard crew, a window cleaning crew, a janitorial crew, a courier route, and a thrift store. One client is employed in an individual supported employment job. All clients earn at least minimum wage. The remaining clients are served in ATE, much of which is operated through a hub location in Seaside, OR. Coast Rehabilitation Services does not operate a sheltered employment program, having closed its workshop three years ago.

The employment programs are operated under an Employment Program Manager. Staffing patterns range from 1:1 to 1:5 staff/client ratio, depending on the needs of the individuals, with the typical ratio being 1:3.

#### Full Life (formerly known as Portland Supported Employment)

Full Life is a for-profit social enterprise serving approximately 133 individuals in various arts, recreational and vocational programs. I met with the founder and one other senior staff at the headquarters and main program location at 3301 NE Sandy Blvd., Portland, OR 97322. I also visited one of three Happy Cup Coffee Company store locations and a coffee roasting operation associated with Happy Cup Coffee Company which is a separate social enterprise owned by Full Life principals. Twenty-five Full Life clients are employed an average of 10 hours/week at Happy Cup Coffee Company where they earn the minimum wage. There are a few clients in individual supported employment jobs. All other clients are served in its Sandy Avenue ATE/workshop facility.

Full Life is planning to cease enrollments in its sheltered workshop in July 2015. The Executive Director and one other person will serve as job developers for new clients referred for supported employment.

#### Partnerships in Community Living

Partnerships in Community Living is a non-profit organization serving individuals with I/DD in various residential, behavioral health, and vocational programs. I met with senior



leadership, including the Employment Division Director and Employment Clinical Supervisor at its program headquarters located at 480 Main St. East, Monmouth, OR 97361. They reported a total of 103 clients served in its ATE program, 93 of whom have some type of employment component to their service, such as Path to Employment and small contract work. They also report that a large majority of these individuals receive these services in community based settings. In addition, they report that there are 6 clients in individual supported employment jobs (2 are self-employed), and 12 in group supported employment which includes placement in a consignment shop, landscaping crew, and a small furniture factory. All individuals in these groups earn minimum wage.

Staff ratios vary according to client need. Leadership reports that the agency's intention to have up to 16 of its direct service staff to be receive the Certified Employment Support Professional (CESP) through APSE.

### MENTOR Network

MENTOR Oregon is a partner of The MENTOR Network, a national network of local health and human services providers that offers an array of home- and community-based services across the country. MENTOR Oregon operates employment related services to approximately 300 individuals in three regions in the state. I met with the State Director of Operations and the Director of Employment Services in the MENTOR state headquarters located at 305 NE 102<sup>nd</sup> Ave, Portland, OR 97220. They reported that the majority of their clients receive facility-based employment services, including Path to Employment and/or DSA. Of the 300 total served, they reported 21 clients are in group supported employment enclaves, and 18 have individual supported employment jobs. All but three individuals in supported employment, who participate in a mobile crew enclave, receive at least the legal minimum wage.

Three employment services staff have been certified through the APSE CESP. Six are certified to provide Discovery Services under the new state process. These certifications were reported as a reflection of the organization's desire to target more clients from its facilities for community employment placement.

### C. Other programs

Two programs on the list of randomly selected organizations refused to meet for this review. They are listed and described below.

### Albertina Kerr Centers

Albertina Kerr Centers provides an array of services to persons with I/DD, including adult group homes and employment services. It is the second largest ODDS funded day program service provider in the state. Employment services include individual supported employment, group supported employment, and sheltered work. It also serves individuals in non-work facilities and non-work community settings (alternative to employment). The total number of people served in all of the employment and non-work programs is

over 300, with less than 30 served in supported employment according to data available from ODDS.

Several attempts were made to visit with organizational leadership at its administrative headquarters located at 424 NE 22nd Avenue, Portland, OR 97232. When we first arrived we were told that the Executive Director did not have the visit on his calendar, but that he would call back when he returned later in the day. His assistant called back to schedule an appointment the next day. That appointment was subsequently cancelled. The reason given was advice of counsel.

#### Edwards Center

The Edwards Center is a non-profit organization providing a number of services to individuals with I/DD. It is the third largest ODDS funded day program service provider in the state. It operates Edwards Enterprises, a sheltered work facility serving over 150 individuals, and an ATE program serving over 140 individuals, as well as small supported employment program with enclave and individual placements serving 16 individuals according to data available from ODDS.

I did not visit Edwards Center as it declined to participate in a visit, claiming it did not provide any supported employment services.

### **VI. General Findings**

#### A. Current capacity to provide supported employment consistent with professional standards

The service models among the programs that I visited varied significantly. They included traditional sheltered workshop models with a few external enclaves, a large retail operation with internal enclaves it classified as supported employment, a program providing individual job placements, two with a mix of ATE and community based supported employment, three providing a mix of ATE, sheltered work, and community-based individual employment, and a for-profit cleaning and janitorial company that operated enclave placements.

Of these, only one organization operated a supported employment program that approximated currently accepted standards. This organization had: processes to determine interest in employment, to assess the types of job placements to pursue for individuals, and to include client participation in job search planning; trained and deployed staff with clear roles/assignments and with manageable staff/client ratios; secured primarily individual employment placements; facilitated integration into the workplace when individuals were placed in jobs; and had targets for expanding the number and diversity of jobs, with the clear support of organizational leadership to pursue supported employment outcomes for clients.

One other program also operated a supported employment program featuring individual placements, thorough pre-employment assessments, internal staff performance measures, and staff quotas for placements. However, since I did not talk directly to organizational leadership, it is unclear about its support of program direction. The person interviewed also stated that supported employment participants had to be “job ready.” This suggests an approach to service that is not wholly consistent with the concept of zero exclusion, which holds that anyone who wants to work will not be excluded from pursuit of work, regardless of disability or need for support to seek and sustain employment.

Regarding each of the individual components of effective practice, a summary is provided here for how programs’ services compared to generally accepted contemporary standards of effective supported/integrated employment.

#### Assessment and career planning

The State has recently added a service category called Discovery, the intent of which is to determine traits and job interests of individual job seekers. All programs had either recently adopted this strategy or intended to do so. However, discussions with program personnel and review of the records indicated that, so far, documentation of the Discovery process in client files was limited to brief summaries. More concerning was the limited evidence that this process was instrumental in determining actual job placements that reflected client interest. In fact, as will be discussed below, the employment outcomes – or lack thereof – rarely reflected a direct relationship between the Discovery assessment and an actual job obtained by the client. Only two organizations described an assessment and career planning process that was intended to thoroughly “discover” client attributes that would inform the job search process. However, both of these two organizations reported a placement rate that approximated only about 50% of clients served in supported employment. At best this suggests an imperfect, or incomplete, use of the assessment and career planning process.

A major impediment to effective use of Discovery, and therefore to the achievement of integrated employment outcomes, is the general confusion among providers about how and when to use Discovery and which state agency pays for it. There are four problems in this regard. First, the criteria for establishing who should receive Discovery is unclear to the providers. Second, the decisions about who receives Discovery are made by individuals in the case management system who have limited to no knowledge of employment potential, employment services, and employment outcomes. This is complicated by the general confusion over whether OVRs or ODDS should pay for Discovery. There are cases where Discovery was conducted as a process paid by ODDS but separate from authorizations by OVRs for job placement. Third, the capacity of providers to conduct Discovery in a timely fashion after referral is limited due to lack of trained staff as will be discussed below. Fourth, the quality of the Discovery process is widely variable among providers as they sort out when the process should occur and as evidenced by the limited job placement outcomes.

Since Discovery is a relatively new process introduced in the State, it is not certain how it will eventually be used to facilitate the job search or how effective it will be in effecting job placements. It is clear, however, that in the absence of a complementary job placement process, Discovery will be a process-oriented service category leading to inconsequential numbers of job placements. This means that class members seeking opportunities to leave sheltered workshops will not be well served. Or to put it another way, the numbers of individuals in sheltered employment who succeed in achieving integrated employment will likely remain small as long as there is a stronger emphasis on processes than there is on outcomes, and as long as the process itself is uncoordinated and disjointed. This lack of coordination, clarity, and its subsequent negative effect on outcomes has been acknowledged by ODDS senior employment services staff.

#### Staff training and competencies

Each program reported at least some level of internal training is provided to staff. Most often this training focuses on internal agency administrative requirements. All programs reported that they relied on the State to provide in-depth training in strategies related to facilitating supported and integrated employment. All programs report sending staff to State-supported training in Discovery and other employment service strategies. Program staff report that although the training is well done and often inspiring, staff often regard it as having indirect relevance to service delivery. For example, staff can get certified in Discovery; in fact, this certification is required for an agency to bill for the new Discovery service. However, there is little training on how to use Discovery for job development consistent with client preferences and skills.

The providers I interviewed all expressed the need for more available training for staff. Job development training was universally cited as a training topic that should be provided more readily. It was further stated that although much of the training inspired agencies to try new strategies, the training did not provide ample information and opportunity to actually put the strategies taught into practice. In other words, they learn what they can do, but not how to do it.

Further, each program expressed that although quality staff training was available through resources such as WiSE and Griffin/Hammis, it was sporadically available. This means that staff, especially new staff, do not have “just in time” or “on demand” training available and, therefore, are often performing their duties with limited or delayed exposure to effective techniques and how to use them. Thus, the ability of staff to perform well is often seriously compromised. Often, undertrained staff are expected to perform tasks for which they are not fully prepared.

In the absence of readily available training in strategies required to facilitate integrated employment, programs will not be in a position to effectively serve individuals moving from sheltered employment to integrated employment. The result will likely be low rates of employment. This could also mean that clients, in effect, could indefinitely receive pre-employment service while they wait for employment opportunities to be developed.

“Pre-employment” is the de facto circumstance currently for individuals in sheltered workshops.

### Individualization

Three of the ten organizations I visited made clear and concerted attempts to facilitate job matches based on the job seeker’s unique characteristics. Only these three agencies described a process for planning for the job search and finding jobs based on individual preference, task competency, and need for support and accommodation. This was accomplished to varying degrees of success based on reported job placement rates. Moreover, only one of these three reported exclusively providing Individual Supported Employment (ISE), as defined by ODDS. The other two offered both ISE and enclave placements, or what is reported to ODDS as Group Supported Employment (GSE).

The other seven organizations provided either exclusively GSE or a mix of ISE and GSE placements for the small numbers served in their supported employment program. In either case, the largest proportion of individuals in community-based employment were in GSE placements. One provider operated internal enclaves within its own organization, which are labeled as GSE placements.

Although ISE is provided by some programs, it is clear that under the current system, and despite the definition in the new Executive Order, it is not necessarily an option preferred or incentivized by the State. In fact, the Executive Order expressly permits group employment placements. This means that the result of the job search is not necessarily employment in a typical workplace where the majority of workers are not persons with disabilities, per the ODEP definition of integrated employment. Enclaves or groups of eight individuals with disabilities working in the same place and performing the same tasks do not represent individualization, and, therefore, are at best suboptimum practice.

Based on the review of the ten programs visited, the capacity of the current system to offer individualized integrated employment opportunities is limited to a small percentage of persons served. Under this circumstance, new clients seeking integrated employment will experience limited success in obtaining jobs that represent meaningful individualization.

### Integration

As just discussed, since GSE is the primary service option that most programs have adopted, by definition a substantial number of individuals in supported employment are not appropriately integrated into their workplaces. Effective integration must reflect a “typicalness” of job features and job status, so that the employee with a disability will have similar work experiences to others without disabilities who are performing same or similar work, as well as have similar working conditions, pay, benefits, and access to workplace amenities. Under most group arrangements, this cannot readily be accomplished. Typicalness is not achieved under arrangements where the clients’ wages are paid by the human service organization supporting them, as opposed to being paid

directly by the employer. At least seven of the programs were the employer of record for individuals in GSE, so that they paid the clients wages from income generated through contracts with the businesses where the clients worked. Further, several of these programs paid less than the minimum wage to the clients performing work under these contracts. And most of these organizations negotiated and depended on these contracts for a portion of their revenue.

As new individuals seek supported employment options from these and other programs in the State, a significant percentage of them will not be afforded opportunities for integrated jobs where, per the ODEP definition, they are in typical workplace settings where the majority of persons employed are not persons with disabilities, where they earn wages consistent with wages paid workers without disabilities in the community performing the same or similar work, where they earn at least minimum wage, and where they are paid directly by the employer.

#### Organizational structures that support effective practice and integrated employment outcomes

No program focused exclusively on individual supported employment. For one program individual employment was the focus for persons not currently served in ATE. One other was making plans to move in that direction with both current SE clients and ATE clients. Both had the necessary organizational structures in place to offer this service. Each had staff deployed for individual supported employment service, or were re-organizing for staff deployment; each encouraged staff participation in training on individual supported employment service delivery; and each organization's leadership was supportive of integrated employment service delivery.

However, since eight of the ten programs reviewed either had a small supported employment service as an add-on to sheltered work and ATE, or none at all, it is obvious that the structure of these organizations visited were not focused or necessarily supportive of effective supported employment practice. All expressed the need to consider how the EO and new funding structures would impact their programs in the future.

Four of the organizations I visited have successfully applied for the State's transformation grants, expressing an intention to expand their supported employment services to more individuals. These applications required ostensible support of organizational leadership to increase community employment placement. However, the applications I reviewed and the discussions with organizations about their plans for expansion suggest expansion of supported employment services that is modest at best. A more detailed examination of the transformation initiative is provided later in this report.

A more salient issue is that there was no program that could boast high placement outcomes among those clients served in individual supported employment. For example, less than half of the small number of people served by one organization worked in paid job situations. Although no official or exact figures were provided about job status, all other organizations reported similar placement outcomes. Focus on outcomes is a

necessary component of effective supported employment practice. As programs expand to serve more persons in supported employment, it may be a reasonable expectation that these individuals will receive a service that is ostensibly supported employment. There are, however, two major concerns about this expansion. First, based upon the current practices and capacity of the programs that I reviewed, most of the expansion likely will be in group supported employment, which is still considered by the most recent Executive Order (15-01) as a countable supported employment service. Second, without an emphasis on eventual employment outcomes, the service ultimately will not lead to sustained, integrated employment for a large portion of individuals served.

B. Interest in and ability to substantially expand capacity to serve a significant number of new clients in SE

With one exception, there was a stated intention to expand supported employment services by the organizations I visited. On the whole, however, there was only very modest interest in expanding services beyond just a few new people. The largest service provider we interviewed stated it will not change its service model at all. Others presented themselves as willing to adjust services according to a new rate system and as encouraged by the Executive Order. Four providers applied for and received a grant under the State's Transformation Initiative. However, the employment targets for moving individuals were generally modest, usually a small percentage of the number of people currently served. In addition there were often vague indications as to how clients would be identified and targeted to receive the new supported employment services and even less clarity about individuals receiving ISE. For example, in some cases, these organizations planned to count clients already on a job search plan against the total target of new supported employment placements. In other cases, out of the many clients who would receive the new Discovery service, they expected only a few to achieve supported employment and even less to receive ISE.

There were clear intentions among at least seven of the ten organizations to pursue VR and state funded Discovery processes. The staff I interviewed stated that if revenues from these sources increase, the organizations would look to add new staff to serve an undetermined number of new clients. As will be discussed later, the State's transformation initiative also represents a significant attempt to bolster supported employment service in the State.

One organization is notable since it already had plans before the EO to expand its supported employment services by offering it to current ATE recipients and new clients referred by OVR. It has several people on the waiting list for its newly established supported employment department. However, the organization's leadership was not sure how well the new rates would support this new direction due to what it perceives as a complicated rate structure.

Although providers expressed that they would like to offer more supported employment services, their plans for expansion are very modest at best. Taken as a whole, the ten providers I visited would likely serve no more than 70 or 80 new individuals in supported

employment over the next 2 or more years. However, they all expressed that they were not in position to project how significantly their services would expand or change due to confusion about rate structure and payment. In any case, their plans for expansion would not appreciably increase the number of individuals in supported employment in the foreseeable future. Further, the ability of these providers to substantially expand and serve significantly more individuals will depend on their ability to deploy more well-trained staff. Staff training was cited as a substantial need by all of the providers.

The actions related to service expansion expressed by the ten providers I visited include:

- Three organizations reported taking new referrals from OVRs
- Two organizations was participating in a pilot program with schools to transition students into supported employment as they exit their education program
- Four organizations expressed the intent to hire new staff as revenue from Discovery allows
- Four organizations had applied for a transformation initiative grant
- Three organizations were creating or expanding supported employment departments within the organizations
- Two organizations was actively seeking more referrals from both OVRs and ODDS

Significantly, many of these actions are being undertaken by the same core of providers. While those that are seeking to expand have proposed specific but very small scale actions providers to expand supported employment services, their plans are still very much in a formative stage and there is considerable confusion and concern over the new rate structure and internal staff capacity. Only one agency made direct reference to planned expansion using the new Discovery service category as a vehicle to increase revenues for serving more clients. It is uncertain however if the informant represented the official position of the organization on this matter. In fact, most providers reported that the new Discovery service would primarily be applied to current clients.

Notably, the largest service provider I interviewed has no intention to change its service model. In fact, it has been classifying its internal enclaves, which are clearly not integrated with non-disabled co-workers, as supported employment. These individuals will not count under the new ODDS definition, in effect reducing the number of people counted as receiving supported employment from this provider.

### C. Potential Impact of the Executive Order (EO)

#### Career Development Planning

There was concern expressed by many of the providers that Career Development Plans (CDPs) were created without their input. Organizational representatives were typically not invited to CDP or Individual Support Plan (ISP) meetings where these plans were developed, and routinely had little to no input into the content of the plans, even though



they are the local experts on employment. Although they recognized the need to avoid undue provider influence in CDP development, the concern was that experienced employment professionals were absent from all discussions on an individual's interests, abilities, and goals for community employment.

Additionally, several providers regarded the CDP as a pro forma exercise that has no direct affect in the actual employment service received by the clients. This presents two potential issues. First, the determinations about client employment suitability are largely determined, or heavily influenced by, case managers who are not experienced or trained in employment methodologies. In fact, these case managers are often the very people who have long referred individuals to sheltered workshops and have had no understanding or belief in the individual's ability to work in an integrated setting. Second, incomplete or biased information is available to make these decisions and to develop viable employment service plans. As a result, the design of the pathway to integrated employment, which must begin and depends on the CDP, is problematic.

Further, under the current arrangements, authorization for Discovery services generally is not made until and unless the CDP indicates the individual seeks employment and, only then, after being authorized by the same case manager who helps draft the CDP. This means that, for all practical purposes, the very service strategy -- Discovery -- that is designed and ostensibly used to determine client interests, skills and supports related to employment cannot even occur until after a determination is made in the CDP that supported employment service is appropriate. In other words, the determination of interest in employment precedes exposure to employment, as opposed to exposure to employment determining interest in it. Individuals can be determined to be uninterested or inappropriate for employment with little or no exposure work experiences and opportunities, by professionals who are not trained, experienced, or qualified to make that determination.

Finally, there is no process for tracking the development of CDPs. As indicated by a senior ODDS employment professional responsible for coordinating the overall CDP process, there is no data on how many CDPs have been completed, the findings and recommendations of the CDP, how many individuals have indicated an interest in working, or the outcome of this process. Some counties have not even reported the number of employment refusals or declaration of no interest in working.

#### Involvement of case managers (brokerages and CDDPs)

The involvement of case managers as referral agents was seen by the providers as important to their ability to serve new clients. However, providers consistently expressed frustration that case managers are not yet clear on the mandates of the EO, have caseloads that are too large to provide individualized attention and engagement with all clients, and are not always supportive of supported employment as a service option due to negative perceptions of the client's ability. In addition, their approach to the CDP appears more a function of fulfilling a requirement than actually guiding a client toward employment. As noted above, many employment providers were especially critical of their local

brokerages, which often schedule and hold ISP meetings, and develop CDPs, without any notice to, or involvement of, employment providers. The senior ODDS professional responsible for coordinating the CDP also acknowledged the significant confusion and frustration by providers about the role and involvement of case managers in the employment service process, as well as their lack of training and understanding of employment issues and services.

These circumstances point to a legitimate concern that a great deal of authority is invested in case managers to decide, or at least significantly influence, whether an individual will have the opportunity to engage in integrated employment. The Core Competencies of Personal Agents and Service Coordinators<sup>5</sup> include a list of 15 areas of competency, only one of which suggests any expectation of employment service expertise: “understanding the core vocational elements that are already known” (Competency 3). The reference to “elements that are already known” is vague and ambiguous, and suggests a status quo approach. Unless case managers are trained to presumptively consider all individuals as employable and to understand the specific strategies that lead to employment for individuals with the most significant disabilities, there is always the possibility – indeed, even the likelihood – that many individuals will not receive the necessary supports, experiences, and opportunities to achieve integrated employment. The achievement of the goals of the Executive Order to substantially increase supported employment are thus not at all aligned with the current practice, experience, and competencies of case managers.

#### Involvement of Vocational Rehabilitation (VR)

All providers visited, with one exception, mentioned more active engagement with VR, including increased referrals in recent months that were directly attributed to the EO. If they are not already, they intended to become VR vendors. There was a range of opinions about the quality of past experience with VR. One agency in particular noted a very positive ongoing relationship with VR as a referral source and as a source of funding support. However, the vast majority expressed skepticism about the value of VR engagement, due to past perceptions of VR’s limited involvement with clients in the I/DD system.

But given new payment systems, there was active interest in determining how VR might refer new clients for vocational assessments that would precede job development. This was expressed especially by three agencies which saw the potential for new referrals as well as possibility of serving a few more youth transitioning from secondary schools when VR was a partner in planning for services related to youth transition. The most frequently-mentioned circumstance for increased involvement with VR was the referral by providers of current ATE clients – rather than individuals currently in sheltered workshops -- for authorization of vocational assessment services.

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<sup>5</sup> State of Oregon Employment First Outreach Orientation for Case Managers and Personal Agents, Fall 2010.

Providers also viewed the increase in involvement with VR as a result of case managers' facilitation/recommendations for VR funding of job development and then initial supported employment. The new pathway for employment, that depends on a CDP indicating interest in employment, and that is now routinely followed by Discovery, *requires* a referral by the case manager to VR for job development and supported employment services. This pathway must be pursued regardless of the individual's prior (often negative) experience with VR, since VR is considered the primary funder of job development and initial supported employment services. As a result, several providers reported long waiting lists for VR services, requiring individuals to remain in segregated settings until there was sufficient VR capacity to serve them on the next step towards employment.

Due to their own limitations on staff capacity, four of the ten providers interviewed stated they had to keep a waiting list for new referrals and could not serve all eligible individuals. However, despite this increase in referrals for assessments, a number of providers stated that VR would eventually determine many individuals as poor candidates for work. Due to past experience and current counselor comments, some providers believed that VR would regard these individuals as unlikely to become employed and therefore not appropriate for VR services.

#### Involvement of schools

Three providers expressed more interest in working with schools to serve transitioning youth. Two organizations reported a concerted effort to partner with schools as active participants in transition pilot initiatives sponsored by the State: one in Columbia County and one in Clackamas County where the provider organization is providing the leadership to the team of collaborators. But the majority of providers visited reported little to no contact with the local school districts and virtually no involvement in the transition process for youth with I/DD in those districts.

#### Core competency training and certification

There is a process to certify staff for providing Discovery services. This training is a requirement in order for providers to be able to receive reimbursement for the Discovery service. The perceived value and relevance of this training was mixed, but all have conformed to the training requirement. The Discovery certification training is the only reported required training for supported employment staff.

In fact, the new ODDS rules for training or certification in job development and job coaching only require one employment professional in each agency to be certified under its core competency standards. Some organizations expressed the intent to have many or even most staff meet a certification standard such as the CESP. However, for virtually all agencies that I visited, and especially large organizations like Goodwill, this means that only a fraction of their employment staff will meet the State's competency standards. This regulatory policy is likely to significantly impact the quality and capabilities of

provider staff in developing new employment opportunities and supporting individuals with significant disabilities in sustained, integrated employment.

A recent policy transmittal on training indicates that all employment professionals are expected to take 8 hours of continuing education in an approved course. This appears to be the only training standard or requirement, in lieu of the core competencies, for employment professionals. The transmittal states that all employment specialists must be both certified and trained in *all* core competencies (which are incorporated in the transmittal), the Statewide Employment First Coordinator indicated that there still had been no decision made – a year after the competencies were issued – which staff have to meet which competencies. That is, it has yet to be clearly determined whether, for example, job coaches should also have training in job development or how many staff in each agency should receive it. The problem remains that new staff begin their jobs with only the requirement that they receive some form of sanctioned training within 90 days.

#### Provider capacity and transformation as influenced by the EO

The Executive Order has had limited effect on provider capacity to serve more individuals through supported employment and/or through transformation from sheltered work service models to supported employment. There are several reasons cited by the providers for this. First, it has had limited effect on relevant staff training except to require Discovery certification. Second, Discovery services are useful preludes to securing employment, but they do not lead to employment outcomes in the absence of solid job development and support. Thus, the EO is emphasizing employment service processes without reinforcing the pursuit of actual employment outcomes. Third, no program that I visited which currently provides sheltered employment services planned to entirely eliminate these services. Fourth, at least three providers stated that their planned reduction in sheltered employment services would be achieved by transferring clients in Path to Employment (sheltered workshops) to ATE services. This results in providing similar segregated services under a different name. Fifth, those providers who only provided community based services were only planning modest expansion of services, despite the major State investment in the transformation initiative discussed below.

It is clear, therefore, that the EO, in and of itself, would not promote sufficient provider capacity to serve substantially more clients in supported employment, nor would there be appreciable program transformation from sheltered workshop service to supported employment service to substantially increase available supported employment service delivery in the state.

#### New rates

There was considerable discussion among the providers about the new ODDS ReBar rate model. The model provides reimbursement for services referred to as “Employment Path” which includes pre-vocational service in a facility (sheltered work services) to improve employability, and pre-vocational services in the community, such as support in volunteer jobs or other community education events with skill building in support of the

goal of paid employment. Services called “Supported Employment” include individual employment, small group employment (enclaves), initial job coaching, and ongoing job coaching. Since this new structure has only recently been implemented, there was some confusion about its application and the adequacy of the rate structure to cover service costs.

Supporting the services covered under this newly organized reimbursement model is Discovery. Discovery is a service paid by ODDS, either in lieu of, or a complement to, a VR funded vocational assessment. Again, all providers reported Discovery as a service they are, or will, provide, but are uncertain about how it will affect ultimate operational revenue.

Although the new rate structure is designed to encourage more community integrated employment, it is hard to predict whether it will actually do so for three reasons. First, Employment Path services, although ostensibly intended to be a prelude to, or preparation for, community employment, appear to be primarily a re-branding of previous segregated day service models. Payments will continue to be available for essentially the same services, albeit under a new name. Second, Discovery is already seen by providers as a way to generate revenue without any consequential expectation of employment results. Thus it is likely to be a heavily prescribed service to increase available revenue to providers, but will not necessarily lead to an appreciable increase in intended integrated employment outcomes. Third, there is no reimbursement structure for client outcomes, only service categories, even if ODDS decides to allow payment for non-face to face time. Thus, limited incentives exist for actually increasing access to or longevity in integrated employment.

### Transformation Initiative

The State has made a considerable investment in an initiative to “assist Service Providers to transform their organizational and service delivery models from facility-based to community-based, integrated employment.”<sup>6</sup> The initiative provides resources for technical assistance and for grants to providers to increase targeted numbers of adults with I/DD to obtain individual integrated employment where they receive at least minimum wage. Contracts were awarded in late 2014 to WiSE and to Living Opportunities to provide technical assistance to the 25 providers awarded transformation grants.

Four of the providers I visited have received Transformation grants. I reviewed their applications and discussed their plans for the grant during my visits to three of them.<sup>7</sup> Two of these providers do not operate a sheltered workshop, but serve most of their clients in ATE programs. One of these two agencies reports that most of its ATE services are already community based. The largest of these four providers expects a 10% reduction of clients in its sheltered workshop facilities as a result of the transformation

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<sup>6</sup> RFP Number ESPS-2214-14, Oregon Department of Human Services.

<sup>7</sup> At the time of my visit to Bethesda Lutheran Community Services it was uncertain whether it had applied. Subsequent to my visit I learned of its successful application.

activities. As an aggregate, these four providers serve almost 550 clients in sheltered workshops or ATE, and propose in their transformation activities to move a total of 56 clients from either sheltered work, ATE, or group supported employment into integrated employment. This represents about 10% of the total number of clients served by these four providers in segregated settings, with many of the individuals in segregated day habilitation as opposed to sheltered workshops.

Because the transformation initiative represents a broad effort to result in more integrated employment, I also reviewed the applications of all of the organizations, twenty-five in all, who received grants under this initiative. A summary of these applications and their proposed activities is provided below.

- All providers expressed a willingness to support the Employment First policies and direction stated in the Executive Order
- All providers are, or intend to become, VR vendors
- All providers commit to developing jobs for targeted individuals at or above the minimum wage
- In total, the applicants propose to provide supported employment services to 190 current sheltered workshop clients.
- Five of the 25 grantees do not currently operate sheltered workshops, but propose to move individuals from ATE services to supported employment
- Five of the 20 grantees who operate sheltered workshops plan to close their workshops in five years, and three expect to significantly downsize their sheltered workshops.

There are several observations to be made from this information. First, the total number of clients the agencies propose to target for integrated employment is relatively small compared to the total now served in sheltered workshops and ATE. This is not likely to significantly advance the intent of the EO, nor does it match the targets identified in the EO. Second, many of the persons proposed to be moved to supported employment are in ATE, not sheltered work. Thus, the ultimate effect on transformation from sheltered work to integrated employment is even smaller than what it appears.

Third, the activities represented in the proposals point to modest service expansion to provide supported employment to more people, but do not represent substantial organizational transformation to new service models. In order for service providers and their programs to move from segregated service models to integrated employment, it is important that they be given intensive support and incentive to make that transformation. Such transformation requires focus on several key areas of activity including: re-deployment of staff from facility based activity to integrated employment support activities, training staff in new service strategies, organizational leadership support of new service structure and delivery, and re-structuring of financial accounting and funding categories to insure that revenue and expenditures match the way new services are provided. Little of this was addressed in the applications, and in fact, many providers proposed using the money to hire new positions, such as job developers. In effect, this

allows service expansion, but not organizational restructuring necessary for broad based conversion from segregated service models to integrated employment.

The likely impact of the transformation initiative is further complicated by its slow roll out. Providers were notified of their awards in September 2014. The first kick-off meeting for this initiative was to occur in March 2015, a full six months after the awards to the grantees of one year grants. Thus, in most cases strategic plans required for implementing the grants have yet to be developed, much less implemented. There will consequently be an abbreviated time for project implementation.

Ultimately, the likely impact of the transformation initiative, as currently structured, will be limited to a few demonstrations of recognized effective practice, which the State already has, and an expansion of integrated services to a relatively small number of individuals. However, it will likely provide limited systemic change in service delivery.

## **VII. Conclusion**

I visited and reviewed the programs of ten providers selected through a randomized process enabling representative sampling of all providers in the state. The method for reviewing these programs and services involved a protocol reflecting accepted national standards.

The providers I reviewed offered employment services representing an array of service models for supported employment, including group supported employment or enclaves, individual supported employment, and enclaves internal to the organization which it called supported employment. These services were often add-on services to other vocational services such as sheltered employment or day services called alternatives to employment. Many clients earned sub-minimum wages in supported employment jobs. Most worked well under 20 hours per week, and some worked only a handful of hours.

Based on my review of program capacity to provide supported employment consistent with these professional standards, there remain several considerable barriers to achieving any appreciable change to the number of people in supported employment in integrated settings in the community or in the quality of those jobs. They are:

- Insufficient staff training for elevating their capacity to deliver supported employment service reflective of professional standards.
- A service reimbursement system that is heavily weighted toward services rather than outcomes from those services.
- A reimbursement system that will still pay for segregated service, albeit under different names.
- Uncertain system-wide interest in changing service models. The largest program I visited directly stated its intent to continue providing segregated service. Two of the largest service providers in the state declined to participate in this review, so it was not possible to determine their intentions related to expanding supported employment. Unless the largest service providers adopt expanded

supported employment service, there will be very limited gains in the number of clients served through ODDS who will achieve supported employment in an integrated setting. It will only happen for comparatively few, even under the relatively large investment represented by the transformation initiative.

- Although there was expressed willingness on the part of most providers to pursue services under the new service definitions and rate structures, the degree to which these services will actually decrease segregated service locations was not clear. In fact, the new rates and funding structure may lead to a decrease in sheltered work, but an increase in ATE services may be more likely than an increase in supported employment.
- The transformation initiative touches a relatively small proportion of the total clients served.
- Consistent confusion as to the State's goals, the lack of clear outcomes, and a perception – even acknowledged by the ODDS employment coordinator – of a lack of commitment, collaboration, and leadership by senior state officials.

The diversity of approaches to employment services delivery and the uncoordinated availability of staff training reflect existing systemic tolerance for a range of services that are counter to good supported employment practice. Similarly, the construction of a pathway to employment services that depends on a CDP process which is managed by case managers and which excludes employment professionals, and that then requires case managers to authorize Discovery and refer to VR, is deeply problematic. It was clear during my program review that current capacity across programs to provide supported employment consistent with professional standards is low. Considerable improvements and refinements of the current system of service will be necessary if substantial numbers of new clients seek supported employment in the State. Major policy and systemic changes beyond the Executive Order will be required to promote support supported employment services consistent with established professional standards.

Given the capacity of current providers and the structure of service reimbursement, the Executive Order is not a vehicle that will likely produce change in the status quo. It is focused on service expansion but not on outcomes. Further, it creates new categories of funding that at this point merely create new ways of tracking service. It provides few substantive incentives, and no direct mandates, to generate better employment outcomes. In other words, the EO will not produce noticeable change in how many people leave sheltered workshops or get jobs. Services may increase under the EO, but integrated employment outside of workshops will likely not. For the class members, this means that without mandated remedies they will not likely achieve the integrated employment they seek.