

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.

Program Capacity Review Report of Ruby Moore

I. Purpose of the Review

Plaintiffs in *Lane v. Kitzhaber* requested that I conduct a review, in conjunction with another employment expert, Dr. Richard Luecking, of the:

- 1) Capacity of vocational service providers in Oregon to deliver employment services consistent with acceptable professional standards and with the Governor's Executive Orders; 2) Impact of the Executive Order on provider capacity to deliver supported employment services; and 3)
- Employment services providers' willingness and capacity to significantly expand supported employment services in Oregon.

II. Qualifications

I have 40 years of experience in the disability field, particularly in the areas of employment and the design and implementation of supports needed for people with disabilities to live, work and be educated in the community. I am currently the Executive Director of the Georgia Advocacy Office, the designated Protection and Advocacy system for people with disabilities in Georgia. I have held this position since 2003.

I have 35 years of experience in assisting individuals with significant disabilities to access employment.

I founded and directed an employment agency for 16 years in Massachusetts and have worked locally, nationally and internationally to expand opportunities for people with disabilities to work. I have provided direct services as well as program planning and evaluation, technical assistance, and organizational development consultation. My experience includes working with individuals with disabilities and their families; local, state and federal government agencies; employers, school systems, advocacy organizations and service providers.

I have served as an expert in employment for people with disabilities to the United States Department of Labor's Office of Disability Employment Policy, the United States Department of Justice and the United States Department of Veterans Affairs. I was recently appointed by the Secretary of the United States Department of Labor, to the Advisory Committee for the new Workforce Innovation and Opportunity Act (WIOA). I have testified before various federal administrative agencies and Senate Oversight Committees concerning services and strategies that enable people with disabilities to secure competitive integrated employment. I gave testimony at two United States Equal Employment Opportunity Commission hearings concerning employment of people with disabilities, and presented at a Department of Labor-sponsored Employment First State Leadership Mentoring Program concerning the application of the *Olmstead* decision to employment services and day settings. I have worked closely with other federal agencies to improve employment opportunities for people with

disabilities. I provided training to the United States Department of Justice Civil Rights Division's Disability Rights and Educational Opportunities Sections concerning evidence-based practices in employment and community integration.

I have many years of practical experience in designing, planning, evaluating and delivering employment services for people with disabilities. I founded statewide technical assistance organizations in Connecticut, New Hampshire and New Mexico and started the first supported employment program in New Hampshire.

My experience includes providing training in vocational services and work strategies to thousands of direct service staff; providing technical assistance to 14 states receiving federal funds to demonstrate systems change from congregate day services to integrated employment services; and demonstrating successful strategies to support people who have deaf-blindness, in regular jobs. I have contributed to the development of numerous training manuals and implementation guides for establishing supported employment services in states across the country. I have designed assessment tools for supported employment services, and participated in the design and production of educational films for persons helping individuals with significant disabilities secure and maintain employment.

My experience also includes serving as an expert and consultant in approximately 20 class actions in 15 states, all of which included employment as a focus (see the attached CV in Appendix A for detail about each case.) My consultant roles ranged from assessment of harm to design of remedies and settlement agreements identifying safeguards and quality standards to improve the lives of each and every class member. My experience encompasses direct service, individual advocacy, policy development, evaluation, management and systems change.

III. Methodology

A. Overview

I drew from multiple sources of information to form my professional judgments and conclusions regarding Oregon's capacity to deliver supported employment services in accordance with accepted professional standards and the requirements of the Executive Order, which calls for at least 7,000 individuals in two specified populations with intellectual and developmental disabilities to be served over the next several years. These sources included: 1) Direct observation and interactions with individual service recipients of Oregon's vocational services provider network; 2) Review of client records, when available; 3) Interviews with executive leadership and staff of vocational providers across the state; and 4) Review of data and information contained in numerous documents to understand the context within which vocational services providers are functioning and the outcomes reported to date. I also reviewed publicly available information regarding each of the providers to be interviewed and data, reports, guidelines, regulations, and public relations information issued by the state. A list of the primary documents I reviewed is contained in Appendix B.

B. Protocol

Dr. Luecking and I designed a review protocol based on accepted professional standards for the design and delivery of employment services for individuals with intellectual and developmental disabilities. We drew upon nationally recognized authoritative resources such as APSE,¹ the United States Department of Labor, Office of Disability Employment Policy (ODEP),² and Dartmouth College.³ Within the context of professionally accepted standards of practice, we focused on key elements necessary to

¹ Supported Employment Competencies, APSE; <http://www.apse.org/policy-advocacy/position-papers/>

² Customized Employment Competency Model, ODEP, <http://www.dol.gov/odep/topics/CustomizedEmployment.html>

³ Dartmouth College, (2008), "Supported Employment Fidelity Scale," <http://www.dartmouth.edu/~ips/page19/page21/files/se-fidelity-scale002c-2008.pdf>

evaluate the capacity of Oregon's current vocational service providers to deliver supported employment services. These core elements included: 1) Assessment and Career Planning; 2) Staff Training and Competencies; 3) Individualization; 4) Integration; and 5) Organizational Structures that Support Effective Practice and Integrated Employment Outcomes. We also looked at provider interest and preparedness to expand their services locally and statewide to meet the needs of the target population to access integrated employment.

The protocol covered the following core components for each provider reviewed:

1. Staffing, including training and competencies
2. Organization/Business Model(s)
3. Service Elements
4. Outcomes
5. Impact of the Executive Order on planning, coordination and implementation of services
6. Incentives and barriers to providing supported employment services
7. Planning for and implementation of capacity development
8. Integration
9. Individualization

C. Sample

Based on the State's data, we decided to review a sample of all available providers reported to deliver supported employment services. We wanted to include all providers that only or primarily provided individual supported employment. We also asked the Center for Public Representation (CPR) (plaintiffs' counsel) to arrange for a random sample of vocational service providers that provided a range of services across the state, that were not exclusively individual supported employment. CPR retained research expert, Dr. Sally Rogers, to draw a random sample of providers per our request. From the randomly selected programs and those programs solely providing individual supported employment, Dr. Luecking and I divided up the list of providers selected and prepared for our visit during the weeks of September 29, 2014 and February 2, 2015.

Prior to the weeks of the review, I obtained additional information regarding each of the provider agencies I was to visit, by researching publicly available information on their websites, the state's Employment First website, and Employment Outcomes System (EOS) data for individuals served by the State's Comprehensive Waiver for People with Developmental Disabilities.

I reviewed seven organizations during the first week and three organizations during the second week. The leadership was, for the most part, cooperative and informative.

IV. Programs Reviewed

I reviewed the following programs during the first week (September 2014):

Living Opportunities
861 Valley View Drive
Medford, OR

Alternative Work Concepts
915 Oak Street
Eugene, OR

Bridges Enterprise
1225 NW Fernwood Circle
Corvallis, OR

Co-Opportunity (aka Center Enterprises)
1305 SE Hill Street
Albany, OR

Ron Wilson Center
155 Clay Street W
Monmouth, OR

RISE Services, Inc.
698 12th Street SE
Salem, OR

Garten Services
500 Hawthorne Ave SE
Salem, OR

I reviewed the following programs during the second week (February 2015):

Oregon Supported Living Program
1250 Charnelton
Eugene, OR

McKenzie Personnel Systems
315 5th Street
Springfield, OR

Supported Employment Services
250 Oakway Center
Eugene, OR

Three providers opted out of participating in the review, one from the first week and two from the second.

The review included a diverse set of providers- large and small- across the state, ranging from those solely providing individual supported employment and job placement, to those providing a wide range of day and vocational services. In addition to reviewing programs with business models exclusively focused on individual, competitive employment, I also reviewed programs primarily or solely providing group work options, as well as others with more of a focus on alternatives to employment, who provided some paid employment.

The following is a brief description of each provider agency I visited.

1. Living Opportunities

I visited Living Opportunities (LOPP) on 9/29/14 at their main office in Medford. While there, I interviewed Roger Hassenphlug, Executive Director, and Steve Dawes, who has a significant role in developing employment options for LOPP. I also met Lisa Comstock, who oversees LOPP's supported employment work and submits the required data for the state.

LOPP considers itself a leader in customized employment in the state and has arranged its resources to primarily provide individualized, competitive employment. Their services are delivered in Medford and Ashland. They recently discontinued a limited, in-house employment option for individuals to do shredding. Since this was considered "Sheltered work," they closed this program. The agency has dedicated approximately 25 full time equivalents (FTE's) to supporting individuals with disabilities to secure and maintain employment. LOPP reports they are supporting over 80 people in individualized jobs. They developed 36 new jobs in 2014.

In response to the state's waiting list, they are experiencing an influx of people on the brokerage and are transitioning 12-15 youth per year. They have designated 3 employment specialists just to do assessments. They organized their employment personnel into three teams to more effectively address individualized job matching, transportation, cross-training and backup support.

While LOPP primarily provides individualized, supported employment, they also have 27 people served in community work crews (yard-work and cleanup for people between jobs, and two small janitorial crews). On average, the crews serve 3-5 people each. They also continue to support 3-6 people with an employer that produces high-end industrial cutting tools. This is a long-standing contract that has gotten smaller over the years through attrition (people retiring, etc.). The group employment they provide is sub-minimum wage. They do not yet support people in starting their own businesses. LOPP applied for and received one of the Training and Technical Assistance Provider Transformation Grants.

2. Alternative Work Concepts

I visited Alternative Work Concepts (AWC) on 9/30/14 at their office in Eugene. While there, I interviewed Liz Fox, Executive Director, and Jacque Gerdes, Assistant Executive Director. I also met other program directors, staff and service recipients while I was there.

AWC is well known locally and nationally as a leader in supported employment. Established in 1986, AWC has, since its inception, specialized in working with adults and transition age youth with physical and multiple disabilities in addition to developmental disabilities. Their services include vocational assessments, job development, job training, job placement, bus training and ongoing support for individuals with disabilities to maintain their jobs. In addition, AWC supports people with disabilities to start their own businesses and AWC provides an umbrella of administrative and program support to entrepreneurs with disabilities. AWC exclusively provides individualized, integrated jobs using a range of individualized support strategies. They have a staff of 13, all of whom do job development, job coaching, and technical assistance to employers and others who are seeking to advance employment of people with disabilities. 100 % of the organization's resources are dedicated to employment and supports necessary to maintain employment. They provide incentives and rewards for staff achieving good employment outcomes for service recipients.

At the time of the review, AWC was supporting approximately 35 individuals with significant disabilities in Lane County to maintain their jobs and advance their careers. They developed 11 new jobs last year and received 2 new referrals since 7/1/13. All 35 individuals served by AWC were in individual, competitive employment or were supported to run their own business. In addition, they serve 3-4 additional people with disabilities to learn how to ride the bus.

AWC receives an ATE rate (non-facility based community supports) for people who are working, to take breaks for such things as: lunch, medication administration, personal care, transportation, g-tube feedings-

things that are generally considered part of the ancillary supports needed to help a person maintain their job.

3. Bridges Enterprise

I visited Bridges Enterprise on 9/30/14 at their main headquarters (and group home) in Corvallis. While there, I interviewed Kinsey Greene, Owner and Director of Bridges. Bridges primarily serves people with disabilities in Corvallis, but also has a farm in Adair and another site in Lewiston. In addition to day and vocational services, they also provide group home services. At the time of the review, Bridges was serving 75 people. Bridges has 15 day/employment staff with a variety of roles and 3 full time equivalents dedicated to supporting people with disabilities to secure and maintain employment. Their vocational program is called "QUEST." When individuals are referred to the program, approximately 30% of the time is spent in paid work, primarily on work crews, with the remaining 70% focused on educational experiences, literacy and nutrition. Roughly 20% of the non-work time is facility based. They have three 4-person work crews and eight work sites. At the time of the review, there were 22 people served through QUEST. 2 of the 22 program participants were referred through the brokerages. The agency indicated that it had no interest in expanding its capacity to provide supported employment.

Bridges serves 24 youth in transition who are "learning to work." The staffing ratio for this program is 1:6 and is funded by family support dollars.

Much of the work experiences involve volunteering. Paid work through Bridges comes in the form of a stipend from the provider for work performed and is reimbursed from County funds. For paid work, Bridges has established a \$4/hour minimum. In addition, they have secured approximately 6 jobs through individual supported employment in the past 10 years for people with disabilities who were seen as having "maxed out" in terms of the contribution they could make on a work crew.

4. Center Enterprises

I visited Co-Opportunity (aka Center Enterprises) on 10/1/14 at their main office and program site in Albany. While there, I interviewed Lionel Derusha, Contracts Manager for Center Enterprises. I also interviewed Susan Keho, Executive Director on 10/6/14 by phone.

Center Enterprises serves 38 individuals with disabilities, in Albany and Lebanon. The agency has had work crews for 35 years; this is their primary business model for employment. At the time of the review they were operating 2 landscaping crews, 2 janitorial crews, 1 horticultural crew, and a sheltered workshop called "Sort and Shred" that does contract work involving conference document destruction. The staffing ratio is 1:6 – 1:8. In addition, they provide opportunities for work trials at county offices.

Center Enterprises eliminated their ATE Program years ago due to financial considerations. They were not providing Individualized Supported Employment at the time of the review and were not contemplating doing so, but were considering different services that could be provided using their work crew model, services to "get people ready for mainstream employment," and ways to enhance their sheltered workshop services. They were also open to accepting referrals from schools.

5. Ron Wilson Center

I visited Ron Wilson Center on 10/1/14 at their main office and program site in Monmouth. While there, I interviewed Paul Steed, Executive Director, and Marcie Kallinger, Associate Director.

Ron Wilson serves approximately 60-65 people with intellectual and developmental disabilities in Polk County, primarily as a residential service. The agency was founded in 1974 by parents to provide semi-independent living. They currently provide residential services, life skills training, vocational services and ATE.

Until recently, the vocational program included 12-14 people making minimum wage and 2-3 doing seasonal lawn-care at Ron Wilson homes.

One individual was receiving Individual Supported Employment and had been supported for roughly 20 years to sell Avon and Watkins as his own business. Other individuals were doing limited clerical work and jobs they reportedly enjoy around the provider agency, for socialization purposes.

Ron Wilson started providing vocational services 10-12 years ago because individuals they served in their residential services were fired from other jobs they had. They created work opportunities in and around the provider agency. The goal was to support their own clients, not to build an employment program and accept other referrals.

Ron Wilson terminated supported employment services in August 2014 due to changes instituted by the state, and specifically the requirements of the Executive Order. The agency has transitioned 3-4 individuals to be supported by other providers. A few other individuals who were previously employed by Ron Wilson are waiting for jobs. Others who were working are now in ATE, with a focus on more socialization. If people express they would like to do more or have paid work, they are referred to Mid Valley vocational provider. Ron Wilson was considering expanding tutoring services, community non-work experiences and ATE.

6. RISE Services, Inc.

I visited RISE Services, Inc. on 10/2/14 at their office in Salem. While there, I interviewed Matt Baldwin, Director.

RISE, Inc. has been providing services in Oregon since 1997 in areas including: Corvallis, Salem, Eugene, McMinnville, Portland and surrounding areas, LaGrange, and Pendleton, Beaverton, Hillsboro. They are establishing services on the Coast and have been asked by OVRS to expand services to rural areas of the state.

At the time of the review, they were providing vocational services, primarily in the form of individualized supported employment, to 100-120 individuals with disabilities. 15.5 FTEs are dedicated to supporting individuals with disabilities to secure and maintain employment. Staff include: an office manager, 12 job developers, 3 job coaches, and .5 FTEs are family services

staff who provide back-up when needed. Caseload sizes are 1:12- 1:15. Nearly 100% of their resources are dedicated to supported employment versus other day services (one person receives non-work community services).

RISE secures a variety of jobs, many of which are “carved out” or customized to meet the skills and interests of the individual. Jobs range from construction, customer service, stocking, food service, and clerical work to peer specialist work within the mental health field. Individualized jobs are the focus. This year RISE has established an employment outcome target of 100 jobs by December. At the time of the review, they had met 60% of their target. RISE applied for and received one of the Provider Transformation grants from the State.

7. Garten Services

I visited Garten Services on 10/2/14 at office in Salem. While there, I interviewed Tim Rocak, Executive Director.

Garten serves roughly 500 individuals with disabilities, with 3 sites in Salem, one in Dallas and one in Eugene. They provide work opportunities including: janitorial, recycling, landscaping, document destruction, packaging and assembly, and mail services. The primary business model is sheltered work. Garten’s Dallas site does commercial laundry and packaging and some community placements. They also support an enclave employing three people, at American Glove. The Eugene site provides custodial, landscaping, recycling and document destruction work. The Eugene site employs 40 people with disabilities. No community placements are made in Eugene. 12 people work in Garten’s mail services. In addition, Garten was receiving an influx of referrals from providers that had discontinued their sheltered workshop services to start over and provide integrated employment.

At the time of the review, data regarding service provision to roughly a third of the individuals attending vocational programs at Garten were on the Comprehensive waiver. 1-2 individuals were reported as receiving individualized supported employment. 90/150 individuals were reported as

receiving sheltered workshop services. 66 individuals were receiving non-work facility-based services. 1-2 individuals were receiving group supported employment. 4-5 individuals were in job development. Roughly 22 people were considered to be in "Discovery." And 1-2 individuals were receiving non-work community based services. Garten applied for and received one of the provider transformation grants from the State.

8. Oregon Supported Living Program

I visited Oregon Supported Living Program (OSLP) on 2/2/15 at their main office in Eugene. While there, I interviewed Gretchen Dubie, Executive Director, and Kim Mitch, Vocational Services Director.

OSLP is primarily a supported living organization that got into the business of providing employment services in Lane County due to the unmet needs of the people using their services and their dissatisfaction with the employment services received from other agencies. They have been providing supported employment to a small number of people they serve since 1990. At the time of the review they had two individuals in community jobs, 4 individuals working for the provider agency and 4 others in the process of getting jobs. The vocational program included 6.5 full time equivalents dedicated to supporting up to 32 people accessing employment. They were working with Living Opportunities in Medford in their Employment Learning Community, aiming to improve their program. They intend to assist 8 people over the next year and half to access employment as part of the Employment Learning Collaborative. OSLP intends to increase the number of people they are serving in supported employment by opening their employment services to individuals for whom they are not providing residential supports.

9. McKenzie Personnel Systems

I visited McKenzie Personnel Services (MPS) on 2/2/15 at their office in Springfield. While there, I interviewed Pam Lawrence, Executive Director.

MPS was established in 1984 as the first freestanding supported employment program in the state of Oregon, and has, from its inception,

provided individual, integrated competitive employment in Lane County. MPS provides a range of employment services including: discovery, assessment, job development, on the job training, ongoing support to the employee and employer. Almost all of their supported employment is individualized, competitive employment. "Employment Path" services are volunteer jobs. At the time of the review, MPS was utilizing 15 full time equivalents to support 97 people in supported employment. They have also expanded their services to include supported living and community inclusion.

MPS is very interested in continuing to expand their individualized supported employment services.

10. Supported Employment Services

I visited Supported Employment Services (SES) on 2/2/15 at their main office in Eugene. While there, I interviewed Kathy Snyder, Executive Director and Kelly Graves, Vice President of Operations.

Supported Employment Services was founded in 1991 and provides Supported Employment, Community Inclusion, and Supported Living Services. Their mission is to secure paid jobs, teach life skills, and facilitate independence for people with disabilities and interdependence with their communities. SES has dedicated 21 full time equivalents to supporting individuals to access and maintain employment. They reportedly have very strong relationships with the business community. SES does not see Discovery services fitting within their business model.

SES provides individualized and customized supported employment, including supports to 3 people in self-employment. SES reports they have experienced 30% growth in referrals since the Executive Order. They used to specialize in transition from school to work and currently see this as an area of expansion of their services.

At the time of the review, they were serving individuals in 3 counties: Benton, Lane, and Lynn. They are hoping to expand services into Corvallis.

V. Professional Requirements for Supported Employment

We based our review on key components of generally accepted professional standards in supported employment for individuals with significant disabilities as published by APSE, ODEP, and Dartmouth College. These standards reflect practices critical to achieving the intended outcome of integrated work and to building capacity for supported employment for people with significant disabilities. 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.

Good assessment and career planning is important because it sets the expectations for working age adults to be employed. It provides the foundation for individualized job development and career development through discovering and articulating who the person is beyond their disability, what their gifts and talents are, environments in which the person does well, and the contribution the person can make to an employer and to society.

In the absence of good vocational assessments and career planning, people with disabilities can be misunderstood, not recognized for their talents and potential contributions within the workplace, and relegated to segregated environments, endlessly preparing for jobs that do not materialize.

Inadequate assessments often block access to needed opportunities and resources that allow a person with a disability to access integrated work.

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.

Staff training and competency building are necessary because staff need to be properly recruited, trained, supervised, guided and supported in their employment work, in order to ensure that they have a sense of identification with the people served by the employment provider; that vocational assessments are carried out with integrity, skill and fidelity to the individual being served; and that they receive proper backup to solve problems and improve employment outcomes for people served by the provider agency.

In the absence of competent well-trained staff, individuals with disabilities who are perceived as having significant challenges to becoming employed are often delayed or denied access to integrated work. Provider capacity to deliver supported employment services of at least minimally adequate quality can be significantly diminished when operating with poorly trained, poorly supervised, or less than competent staff.

For providers attempting “transformation” to integrated employment, staff roles and staff competencies require review for needed changes and specific re-training to skillfully assist people with significant disabilities to move from segregated employment and day services to integrated employment. Different skills are required to do this well. Competencies associated with providing day supervision in a segregated setting, with the goal of “getting out” into the community are vastly different than those skills required to successfully support people with disabilities to access integrated employment and advance careers. The precision with which providers identify both the need and the strategies for building these competencies will be central to determining success or failure in addressing the needs of individuals with I/DD and creating sustainable capacity for supported employment locally and statewide.

3. Individualization: Individualization requires planning opportunities, services and employment supports based on the job seeker’s unique characteristics. Effective job matches and longer job tenure are more likely when job search and job development is individualized. Individualized job search results in employment in a typical workplace, where the majority of

workers are not persons with disabilities, consistent with the federal definition of integrated employment established by ODEP. Enclaves or groups of individuals with disabilities working in the same place and performing the same tasks, as an identifiable group, does not represent individualization or effective practice.

Individualization is central to planning adequate and relevant employment supports and opportunities for the person served, and is the guide to directing how the provider organizes its resources to achieve the intended employment outcome for the individual.

Absent individualization, services are likely to be irrelevant, insufficient, and potentially harmful. On a broad scale, providers designing services and supports, absent individualization, are likely to create as much harm as good for the individuals served, including unintentionally becoming the problems they are setting out to address (e.g. unemployment, segregation and lack of access to integrated work). Individualization is a critical requirement in the development and implementation of minimally adequate services for people with disabilities. Often, years of a person's life can be wasted when well-intentioned people/providers create services and supports without individualization.

4. Integration: U.S. Department of Labor, Office of Disability Employment Policy (ODEP) defines integrated employment as: "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."⁴ Integration will reflect a "typicalness" of job features and job status: 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, interactions with co-workers, and access to workplace amenities.⁵

⁴ Integrated Employment, retrieved from <http://www.dol.gov/odep/topics/IntegratedEmployment.htm>

⁵ David Mank, Andrea Cioffi, and Paul Yovanoff (2000) Direct Support in Supported

This is important because true integration allows people with disabilities to enjoy the same benefits of living and working in the community as their non-disabled peers. Integration can satisfy the universal human need to be seen as a contributing member of society and to have the opportunities to do so. For people with disabilities who often experience a heightened vulnerability to being misunderstood, abused and neglected, integration provides an invaluable safeguard. Significantly, integrated employment can create a pathway out of poverty and segregation.

Absent integration, people with disabilities are vulnerable to being relegated to low social status, segregation and lack of access to services that facilitate integrated employment and valued adult social roles. Equally, this can reinforce the notion of “us and them” and the myth that people with disabilities are a burden to society instead of contributing members. Lack of integration, including lack of access to integrated employment, can create an unnecessary dependency on expensive segregated services that do not lead to more economic self-sufficiency.

6. Organizational structures that support effective practice and integrated employment outcomes: Organizations that are effective in producing integrated employment 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 services that support integrated employment and use data to track outcomes, which in turn are used as a management tool to continuously improve integrated employment outcomes.

Organizational structures or “business models” in supported employment are important because providers need to intentionally direct resources toward the intended outcome (integrated employment) and utilize business models that incorporate practices known to be effective, in order

Employment and Its Relation to Job Typicalness, Coworker Involvement, and Employment Outcomes. *Mental Retardation*: December 2000, Vol. 38, No. 6, pp. 506-516.

(<http://www.aaidjournals.org/doi/abs/10.1352/00476765%282000%29038%3C0506%3ADSISEA%3E2.0.CO%3B2>)

to maximize capacity to allow persons with I/DDs access to integrated employment.

In the absence of organizational structures that support effective practices and integrated employment outcomes, individuals do not have the support they need to allow access to integrated work. The result can be years of wasted time and lack of clarity about what individuals want and need to be gainfully employed.

In addition to the core requirements of effective supported employment programs -- those that are likely to produce the intended outcome of employment for people with significant disabilities -- there needs to be competent case management/service coordination, since even the best programs can be undermined and access to needed services delayed or denied to people with disabilities for whom the services are intended. Competent case management is essential to realizing the promises of the Executive Order and reaching its goal of significantly increasing the number of people accessing supported employment services and engaging in employment and career advancement.

VI. Findings

1. The State does not clearly define, expect, or measure integration.

The overwhelming impact of the first Executive Order⁶ was to raise the level of confusion about supported employment and the State's expectations about integrated work. There was considerable misunderstanding and uncertainty regarding the definition and measurement of integration. Several providers indicated that it was difficult to get a clear and consistent interpretation of what was to be delivered where, hence making the State's reported data on integrated services questionable. Some of the providers interviewed indicated that they

⁶ The Program Capacity Review was conducted before Executive Order 15-01 was issued, so providers were not familiar with the terms of the new EO. The new Executive Order does not change Executive Order 13-04 sections most relevant to provider capacity, including: 5- Career Planning; 6- Training and Core Competencies; 8- Provider Capacity; 9- State Agency Actions; and 11- Interagency Collaboration.

thought this also allowed providers contracting with the State to continue to do what they had always done, but to call it something different. *There was considerable confusion expressed regarding what constituted integrated work and what should be counted as sheltered work.* Two providers expressed concern about vocational assessments continuing to be delivered in sheltered workshops. County and State personnel do not consistently define these services in the same way, leading to further lack of clarity for providers and increased difficulty with providers being paid in a timely way.

Roughly half of the providers interviewed thought the Executive Order needed to be stronger and clearer about the intended outcome of the state's efforts to increase integrated employment for people with disabilities, not just services. Conversely, two providers expressed concern over the increased focus on integrated work. One provider has stopped providing supported employment services based on the Executive Order.

These problems lead to diminished capacity to provide access to integrated work for persons with I/DD. They are exacerbated by the combination of lack of clarity about the intended outcomes of integrated employment services, as well as the acceptance and support of a dual system of segregation and integrated work. Although the EO contemplates "closing the front door" to sheltered workshops by July 2015, the impact of this plan is undermined by the continued support of segregated services and lack of clarity regarding what constitutes integrated employment.

In order to be effective, clearly defined integration outcomes and the known methods for achieving those outcomes are essential for systems change or any transformation effort. Otherwise, the State is likely to engage in costly initiatives that largely maintain the status quo, modestly increase employment outcomes, and do not significantly change the practices that allow for successful implementation and significant increases in access to integrated work for persons with I/DD.

2. The State does not clearly define or measure supported employment and the other employment services

In order to create meaningful change to substantially increase the capacity of providers to deliver supported employment services, the *definition of what constitutes an employment service needs to be clearly articulated.*⁷ It also makes it unlikely that the data representing “progress” are accurate and valid. Finally, it can significantly impede building capacity for the provision of supported employment services that allow persons with I/DD access to integrated work.

Providers indicated that the state is trying to move quickly on engaging more people on a “Path to Employment,” without clearly explaining what this is. Some providers believe this only relates to people who already have a job and want to enhance their careers. Others have interpreted this “new” service as providing outreach to people seen as not “ready” to work or individuals who are perceived to not want to work, even though they have not had the opportunity to have experiences that would allow an informed decision. And some providers are being instructed, for the purposes of billing, to count people as receiving Employment Path services if other billable service codes are not available, due to glitches at the County level. Currently, many persons with I/DD who could be working face significant delays or denial of access to employment as a result of these definitional uncertainties.

Providers were unclear about what to count as sheltered work, discovery, employment path, and supported employment services. Most reported they were using their own judgment to define who was receiving what service. Providers also indicated that they weren’t sure if what they were counting as a particular service/setting was accurate or consistent with other providers’ practices. There is ongoing conflict, confusion and debate about whether jobs owned, managed and paid for by the provider should be counted as competitive employment. State officials have not come to

⁷ The new EO attempts to provide some examples of employment services, although it remains unclear whether this is an exhaustive list, and, if so, why a VR plan counts as an employment service but VR job development does not.

agreement or resolved this question, which goes to the core definition of supported employment and a key element of required integration.

Many providers were unclear about how employment status should be tracked. The service categories are not intuitively obvious and some providers commented that they wished the state had partnered more effectively with them, or at least communicated clearly, what each of the service categories meant, so that they could establish a credible baseline of where people were in employment settings, the vocational process, and whether or not any one class member was in an integrated setting. Most thought the EOS data were suspect and no one thought there was consistency in reporting across provider agencies. Even if this is cleared up eventually, the baseline and reported “progress” will be suspect.

Most providers asked me *what I thought actually counts as an employment service* and some were not sure if the definition of integrated employment has changed since the Executive Order. One provider indicated that they thought if a person were working 15 minutes/month or quarter, they might be counted as receiving an employment service. Most questioned the criteria being used for counting who was in an employment service that would lead to the State’s claim that there were 600 new people receiving employment services as of 7/13/14. Providers are submitting data without using consistent service definitions. This makes it more difficult to track progress or lack of progress, and to identify the need for course correction to address ineffective practices impeding access to integrated employment for persons with I/DD.

3. The creation of the new discovery service is positive but is not reflected in improved assessments through the Career Development Plan

Some of the employment providers with a proven track record of delivering successful integrated employment services consistent with the Executive Order indicated that *vocational assessments are still happening in segregated settings*. In the absence of professionally appropriate vocational assessment and planning, class members are unlikely to gain access to integrated work that matches their skills, interests and needs.

Nearly all of the providers I visited cited the new service called Discovery to be a positive outcome of the Executive Order and resulting rate changes. Some providers expressed concern over the lack of a uniform definition of Discovery, *the potential use of segregated settings for Discovery*, the lack of coordination between OVRs and ODDS in the referral process, the criteria for who should get Discovery, and the funding of Discovery. Some providers think Discovery is only for people who already know they want to work and have a completed career development plan indicating that they want to work. Others think it should be used for people who are not sure if they want to work and need this service in order to gain support from their case managers, personal agents, and teams, to even be considered for employment. Still others believe it is unnecessary and inappropriate for individuals who state they know what type of work they prefer.

Three providers indicated that this has resulted in significant delays -- sometimes months -- or outright denial of access to Discovery services for persons with I/DD. In addition to the unclear criteria limiting access to needed Discovery services, the staff who decide which individuals should receive Discovery services are case managers and personal agents that are not trained in supported employment nor knowledgeable about how Discovery can advance employment for individuals with I/DD. Case managers and personal agents must authorize and refer for Discovery, despite their lack of training and understanding of employment services, as acknowledged by providers and the ODDS Employment Coordinator. Providers indicated there are long waiting lists for Discovery, creating a significant capacity issue for providers that offer this service, and often resulting delays of up to 6 months or more.

There is little evidence that Career Development Plans (CDP) have improved as a result of the State's funding Discovery and their attempts to improve the quality and sufficiency of career planning. The State created a fairly detailed CDP document and process, but due to provider resistance, it has been substantially modified and dramatically reduced. Most troubling is that an individual's decision - or their team's decision on their behalf - to decline employment (even in the absence of a frame of reference to make this decision) has been reduced to a quarter page checklist. This is a major

setback for thorough, individualized career planning and fidelity to the State's Employment First Policy.

Case managers who have reportedly not received essential competency-based training, are expected to: 1) create appropriately high expectations for employment; 2) interpret the state's Employment First Policy; 3) facilitate career plans, 4) authorize services; and 5) monitor implementation, regardless of whether or not they have any background in employment or expectations for people on their caseload to work. Employment providers and professionals are often not even invited to the team meetings when "career planning" is happening.

Correcting the unintended consequences of individuals with I/DD not receiving essential career planning services is unlikely, since there is no data collection to track how many career plans have been done, for whom, and what was discovered through the process to help advance employment. There is only a directive to send "My Declaration" forms to the State -- a process and document that directs attention and resources to documenting that a person ostensibly doesn't want to work. There is no systematic method for collecting information and monitoring outcomes of the CDP process.

4. The State's core competencies have had, and are likely to have, little to no impact

The State expects that all individuals with I/DD who currently receive services in sheltered workshops and who are qualified for, and don't oppose supported employment services in an integrated setting, will receive them by 2022. Workforce development necessary to deliver these services on a broad scale requires competency enhancement of employment specialists and professionals responsible for providing these services as well as case managers and personal assistants responsible for developing career plans, determining with the team which individuals could benefit from Discovery, for making referrals for OVRs and ODDS employment services, and monitoring implementation. In January 2014, the State issued core competencies for providers, case managers and personal

assistants, as one of the steps taken to expand capacity in the state to meet the employment needs of the persons with I/DDs.

The core competencies for case managers and personal agents are deeply problematic. There is literally only one word in the stated competencies regarding employment and no specific expectation that case managers and personal agents -- the primary gatekeepers to employment services -- have any real understanding of employment, employment services, or how to facilitate crucial, individual planning for achieving employment outcomes. There is a profound disconnect between their responsibilities and the expected core competencies needed to successfully perform their duties.

To date, the State's core competencies have also had little to no impact on the quality of employment services, staff roles, training, and supervision. One provider indicated that there are no performance standards associated with the core competencies. Some providers have not even seen the core competencies.

While the core competencies adopted by the State for providers are consistent with national professional standards and were written to model the APSE standards, it appears that an employment professional must meet all elements of these standards (job discovery, job development, job coaching) to be certified. But there is still much confusion at the state and provider level regarding how many professionals in any one provider agency need to be certified, and what the certification will be. Moreover, training and opportunities for skill building are not accessible on the scale and depth necessary to meet the needs of programs statewide.

DHS has issued core competencies covering a wide range of requirements, but contrary to the implied requirements of the Executive Order -- do not require that all employment professionals be competent and meet these core competency standards. Instead, under the agency regulations, each employment provider need only have *one* staff member who has been certified as competent under these standards, regardless of the size of the agency and number of people expecting to be served in their employment programs. For agencies with tens, if not hundreds, of employment staff, this minimalist approach to competencies is insufficient. Equally, the state

is still debating, a year after issuing the core competencies, which competencies will be required for which professionals and other staff.

Providers indicated that there also needs to be hands on modeling, teaching, and technical assistance accessible for provider staff to learn the skills needed to advance employment for the persons with I/DD and to meet the expectations of the Executive Order.

5. Training has had minimal impact

The training provided by the state has not yet had the intended impact of building capacity for supported employment, equipping providers with the skills necessary to meet the obligations of the Executive Order, nor inspiring changes in practice necessary to shift resources from segregated employment to integrated work. The providers indicated difficulty accessing the training in a timely way and at a level necessary to build their internal capacity for supported employment. In some cases providers indicated it was cost-prohibitive, due to having to travel across the state to participate, even though the training is technically “free.” Half of the providers indicated that while the training was helpful and inspiring, it lacked the actual hands-on skill-building necessary to build staff competencies to deliver supported employment.

This is further complicated by the fact that most providers interviewed thought that the training being sponsored by the state might be effective in motivating providers to understand the “big picture,” but did not meet the needs of providers to actually develop the skills to carry out the core functions of supported employment services.

Technical assistance being provided through contractors with the State is seen as difficult to access. The training fills up quickly and is cost-prohibitive, especially if the only openings are outside of the areas of the state where a provider is operating. The training is seen as useful in keeping the employment discussion on the table and teaching people about what is possible. Many providers indicated that the training to date falls short of the actual skill building necessary to change practice, transform programs, or expand employment in the state.

6. “Gate keepers” and people in key roles to facilitate employment outcomes (case managers, brokers) are not equipped to do essential functions of their jobs

Gatekeepers to employment services (i.e. case managers, service coordinators, brokerage agents, and VR counselors) need to respond to referrals in a timely manner, create positive expectations for persons with I/DD working, expedite access to services, answer questions regarding potential myths or disincentives to employment, and facilitate plans for employment. There is considerable confusion, lack of role clarity, and, most importantly, a noticeable lack of skill and coordination by these gatekeepers across funding systems (ODDS and OVRs).

Case managers and personal agents are responsible for facilitating a complicated, multi-step process of helping individuals to access employment, beginning with the case manager’s own assumptions about who can/can’t work – often developed over years when individuals have been relegated to segregated services in sheltered workshops or ATE -- and usually without the benefit of involving team members with employment expertise. To compound the problem, they are also responsible for authorizing Discovery services that can help an individual who has never worked, and the other people in the person’s life, to envision the possibilities for employment. Lack of experience and lack of competency-based training of case managers and personal agents can shut the door on employment opportunities and career planning for class members. In fact, there is little evidence of career planning reflected in the Individual Service Plans (ISP) for class members.

Providers report that County case managers and brokerage service coordinators/agents are often ill equipped to answer questions regarding the Executive Order, the State’s new rates and definitions for services, and expectations for career planning. Providers report that the County, the Brokerages, and the State do not consistently answer these questions in the same way, thus contradicting each other and confusing providers. In addition, case managers and brokerage agents are expected to facilitate career planning, even when they have not been trained and are uneven in

their support of Employment First and how this should translate into opportunities and supports for persons with I/DD.

Providers also report that persons with I/DD are supposed to be referred by County case managers and brokerage agents to OVRs to begin the process of seeking employment. OVRs usually refers people back to the case managers and brokerage agents for Discovery. Persons with I/DD can wait for months for a response from the County, brokerage, or VR staff. This results in unnecessary delays in class members accessing employment and can lead to people giving up or changing their mind about pursuing employment.

Good case management is the lynch pin to effective access to services, individualized employment planning, and monitoring for the quality and effectiveness of services to produce employment outcomes for persons with I/DD. Providers report that case managers and brokerage agents are having consistent difficulty: 1) creating an expectation for employment; 2) knowing the appropriate service codes and how to enter them into the system; 3) engaging Discovery services in a timely manner; 4) coordinating referrals to OVRs; 5) facilitating career planning; 6) insuring providers are being paid in a timely way; and 7) monitoring services for effectiveness and “fit” with the needs of persons with I/DD. They have been assigned critical roles effecting class members’ access to employment services without necessarily having the background, experience, training, guidance, supervision and oversight to competently do their jobs. This has resulted significant obstacles to class members accessing employment services and to providers being paid in a timely way.

The process for accessing employment services contains many checkpoints and potential opportunities for delaying or denying services. The system is unnecessarily fragile, with a huge responsibility on case managers and brokerage agents who are often not well equipped, trained, or oriented to perform these duties.

7. The new rate structure and other State actions have not provided adequate incentives to move away from sheltered work to individualized employment.

I reviewed ten providers representing a wide range of methods to supervise persons with I/DD during the day, with variable degrees of focus on employment. Some were better equipped than others to provide supported employment services consistent with accepted professional standards of practice. All of the providers were interested in expansion in one or more ways, some clearly focused on expanding access to integrated work, others discontinuing supported employment services to develop alternatives to work, and some growing both integrated employment and concurrently developing more segregated day and employment services.

The ten providers reviewed reflected the larger system of day and employment services in the State and varied considerably in their adherence to acceptable professional standards for supported employment. Provider business models for delivering service ranged from exclusive provision of individualized supported employment, to providers of mostly individualized and some group supported employment, to strictly crews, and providers whose primary service models were sheltered work and ATE. One provider is primarily a Supported Living Provider, engaging in Supported Employment in order to better address the needs of their clients, previously receiving day and employment services from other providers.

Providers of individual supported employment were initially encouraged that Discovery is being funded. Many doubted that the tier system would result in better funding for people in individualized jobs to work more hours. They also indicated that there continues to be a strong financial incentive for group employment.

By January 2015, some providers had waited for 3-4 months to be reimbursed for employment services. Smaller providers reportedly feared going out of business.

8. Transformation grants are unlikely to produce the intended outcomes

The State has made a significant financial investment in an initiative intended to assist providers to transform organizational and service delivery models from facility-based to community-based employment. Because the transformation grants are a core strategy employed by the State to attempt to meet the expectations of the Executive Order, I reviewed all of the grant proposals. The following are some observations.

a. Organizational transformation is not required

The “transformation grants” expect at least temporary increases in integrated employment. However, there is no clear expectation or requirement for true transformation: 1) mission realignment and foundational values clarification; 2) leadership development; 3) changes in practice to more closely align with contemporary practices in supported employment; 4) utilizing more effective business models; 5) sustaining the changes made; 6) shifting resources from segregation to integrated employment; 7) changing staff roles and competencies to achieve significant increases in integrated employment for class members; and 8) managing the change process, including necessary internal and external safeguards. Providers are not required to actually transform their services.

For example, although the stated purpose of the transformation grant RFP was to increase access to integrated employment and to change practice to sustain outcomes and continued systems change, the RFP failed to clearly articulate a core set of standards, principles, and outcomes consistent with professionally accepted standards of practice. As a result, this initiative could well result in a “reform to sameness” and the continuation of delaying or denying persons with I/DD access to integrated work.

Of the ten providers I interviewed, three applied for the transformation grants. One provider, with a proven track record in supported employment, was looking to expand their services to other parts of the state. Another provider was expanding its services across different service models of community employment, while receiving referrals from other agencies that had discontinued their sheltered workshop services in favor of providing

integrated employment. Finally, the third provider, which applied for a technical assistance grant rather than a transformation grant, hoped to expand its Employment Learning Community to include 9 providers to deliver quality individualized supported employment. The transformation grants may provide a first step for some providers to change their practices to be more in line with contemporary standards for supported employment, but there are no requirements for systematic or sustained change.

b. Modest outcomes will not achieve intended the outcome of the EO

In addition to not requiring transformation from segregation to integrated employment, only a modest number of supported employment placements (jobs for class members) are expected. Based upon unenforceable commitments in the providers' applications, the total projected number of placements into individual integrated employment proposed by all 25 sheltered workshop providers is only 175 over a two -year period. 1-3 providers that already have the competencies needed to operate an effective supported employment service could and already are meeting this benchmark.

The State has chosen to award significant funds, allocated across 25 providers, with nearly all of the requirements for payment associated with process measures instead of meaningful employment outcomes. Providers can draw down 90% of the funds awarded without achieving even one employment outcomes by:

1. Having an initial meeting;
2. Creating a strategic plan; and
3. Meeting with technical assistance provider.

In grants management, these activities would generally be considered "pre-implementation" activities. While there is a separate incentive payment for individual jobs developed, the number of job placements proposed is very small and not likely to lead to meaningful transformation since the Request for Proposal (RFP) does not require organizational change, more effective

business models, or conversion from sheltered work to supported employment. In fact, some grantees have proposed as few as 5 job placements for the grant period, while largely maintaining their usual practices and the status quo. Such modest projected employment outcomes serve to maintain the current culture of the organization and are unlikely to produce significant change or increases in capacity over time.

c. The State is endorsing the growth of segregated programs

The State has awarded grants to organizations that explicitly plan to:

- 1) Maintain their sheltered workshops while growing segregated day programs, formerly called Alternative to Employment (ATE) and now renamed as Day Support Activities (DSA);
- 2) Close their sheltered workshops, in part by transferring individuals from the workshop to segregated day services ;
- 3) Substantially reduce sheltered workshop populations by transferring individuals from segregated employment services to segregated day services.
- 4) Transfer individuals in a segregated work program to segregated day programs within which no participants have a work goal and work is not a primary focus of the program.

These trans-institutionalization practices are being reinforced by the State through funding of programs advancing these strategies as transformation. Simply reducing or eliminating sheltered workshops does not adequately address the problem of segregation, nor does it effectively bring the state into compliance with the ADA. Funding trans-institutionalization of individuals with disabilities under this “transformation” initiative could create the illusion of progress and the unintended consequence of prolonged and unnecessary segregation of people with developmental disabilities in Oregon.

The State risks investing significant dollars -- approximately \$6 million to date -- into short-term outcomes, without creating the mission clarity and financial incentives to transform services and build momentum and capacity for increasing access to integrated employment.

The providers of sheltered work, "readiness" models that focus entirely on preparing people to work rather than facilitating integrated employment opportunities, as well as those providing alternatives to work, did not indicate an intention to shift resources from, or discontinue these services, in order to pursue the development of more integrated employment services. This may impede the "closing the front door" intention of section III of the Executive Order.

There has also been an unintended consequence of giving additional resources to segregated services, in an attempt to motivate them to transform their services and change their business models to be more integrated. The perception of some providers with a proven track record in delivering individualized, competitive, integrated employment is that the money and attention are going primarily to providers opposing the Executive Order: those providers who are primarily providing segregated services and those who have taken a public stand against the Employment First Initiative and the Executive Order.

VII. Conclusion

The State is engaged in a range of activities ostensibly aimed at meeting the provisions of the Executive Order. Lack of clarity in setting and defining expectations, service definitions, measures for accountability, roles and responsibilities, and intended outcomes, has led to more confusion within the service provider community, than the establishment of a strong foundation for significantly expanding capacity for supported employment. Absent clarity regarding service definitions, what is being measured, uniformity in what is being counted as supported employment, how integration is being defined and measured, and who is being counted as "new" to employment services, even the very modest promises and provisions of the Executive Order are unlikely to be achieved, let alone the goals and expectations of a professionally-acceptable system reform plan.