

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

PAULA LANE, et al.,

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

Plaintiffs,

v.

JOHN KITZHABER, et al.,

Defendants.

UNITED STATES OF AMERICA,

Plaintiff- Intervenor

v.

STATE OF OREGON,

Defendant.

EXPERT REPORT OF DR. PAUL WEHMAN

I. Purpose of Review

I have been asked by the plaintiffs to conduct a review of the Governor's Executive Orders 13-04 and (15-01) (EO) and Oregon's Integrated Employment Plans (IEP), in order to determine whether they constitute a professionally-appropriate plan for providing employment supports in integrated settings for individuals with intellectual and developmental disabilities (I/DD) who are in, or at risk of entering segregated sheltered workshops. The purpose of this review is to assess the adequacy, comprehensiveness, and implementation of these plans in light of professional standards and best practices for providing integrated employment opportunities to persons with I/DD, and for ensuring that all qualified persons with I/DD in Oregon receive the opportunity and supports to work in integrated settings at a reasonable pace.

II. Qualifications

I have devoted my entire professional career to enhancing employment training and supported employment for persons with disabilities. For the past thirty years, I have been the director of the Rehabilitation Research and Training Center for Employment of Persons with Physical Disabilities at Virginia Commonwealth University ("RRTC"). The RRTC is a national research, technical assistance, and training program for professionals serving individuals with disabilities, funded by the Rehabilitation Services Administration of the United States Department of Education. Established in 1983, the Virginia Commonwealth University RRTC provides resources for professionals, individuals with disabilities, and their representatives. Its nationally and internationally-renowned researchers are committed to developing and advancing evidence-based practices to increase the hiring and retention of individuals with disabilities, including persons with intellectual and developmental disabilities (I/DD).

I am also a professor in the Department of Physical Medicine and Rehabilitation/Medical College of Virginia Commonwealth University, with a joint appointment in the Department of Special Education and Disability Policy in the School of Education, and the Department of Rehabilitation Counseling in the School of Allied Health Professions. For over two decades, I have served as Chairman of the Division of Rehabilitation Research in the Department of Physical Medicine and Rehabilitation, Medical College of Virginia.

I am the editor of the Journal of Vocational Rehabilitation, a leading journal in the field of employment for persons with I/DD and other disabilities; this is the journal which goes to all APSE : The Employment Networks' members nationally, the primary outlet for supported employment. I am also on the editorial board of the Journal of Disability Policy Studies, the Journal of Remedial and Special Education, and the Journal of Intellectual Disability Research. I have served on the editorial boards of at least twelve other major professional journals, and been the director of research for the World Association on Supported Employment.

I have testified on several occasions to Congressional committees on supported employment, advised numerous federal agencies or offices on supported employment issues, and have conducted evaluations of supported employment services for the District Court of the District of Columbia and its Special Master in *Evans v. Fenty*, [CITE].

I have authored 43 books, 115 book chapters, and 212 articles in professional journals on employment and transition services for persons with I/DD and other disabilities. The vast percentage of my professional writing focuses on supported employment, including the definition, purpose, effectiveness, outcomes, costs, and benefits of supported employment. I have authored numerous articles that compare the effectiveness, benefits, and costs of supported employment and sheltered workshops. A complete list of my publications, presentations, consultations, and educational background is set forth in my curriculum vitae, which is attached as Appendix A.

III. Methodology & Materials Reviewed

I have reviewed the materials in the original Executive Order, dated April 10, 2013, the revised EO, dated February 2, 2015, the initial IEP, dated November 1, 2013, the revised IEP, dated January 31, 2015, as well as professional literature and standards for supported employment. I evaluated the State's plans in light of this literature and standards, as well as my 35 years of clinical experience in developing and implementing supported employment programs in integrated settings. A list of the materials I reviewed is set forth in Appendix B.

IV. Professional Literature, Professional Standards, and Best Practices

The entire purpose of supported employment is to assist individuals with I/DD obtain and maintain employment, where they can earn competitive wages and work in an integrated setting. Supported employment services are predominantly provided in an integrated employment setting, more intensely at the outset but over the long-term such services are provided at the level and intensity needed to allow the person to maintain employment. The critical and unique element of supported employment services for persons with I/DD is support in an actual employment setting, not extended time in pre-vocational preparatory services.

A. The Professional Research on Integrated Employment

Supported employment research and practice has demonstrated that virtually all individuals with I/DD who want to work can do so in an integrated employment setting. Despite economic downturns, challenges of rural economies, negative stereotypes of persons with disabilities, and a lack of work history, there is considerable evidence that even persons with the most profound disabilities can obtain and maintain a job.

The goal of supported employment programs is to assist people with the most significant disabilities to be successful in paid employment in the integrated work setting of their choice. Supported employment programs began as early as 1980 (Wehman, 1981) and were marked by a paradigm shift from providing services in centers to support services in business and industry settings. The focus has been paid employment in integrated settings. Current federal regulations, issued by the Rehabilitation Services Administration to govern the national Vocational Rehabilitation (VR) Program, define an integrated setting as a setting typically found in the community where individuals with disabilities interact and work with individuals without disabilities, other than individuals without disabilities who are providing services to them, to the same extent that individuals without disabilities in comparable positions interact with other people (State Vocational Rehabilitation, Jan. 21, 2001).

The revised regulations that eliminated extended employment in a non-integrated setting overturned a decades-old policy that allowed VR agencies to consider placement in segregated employment settings such as sheltered workshops to be an appropriate employment outcome for individuals with disabilities. Under the amended regulations, an

employment outcome is defined as full- or part-time employment in the integrated labor market (State Vocational Rehabilitation, Jan. 22, 2001). Appropriate employment outcomes include not only supported employment but also self-employment, telecommuting, or business ownership.

Research by Kregel and Dean (2002) has helped to validate these policy changes by the Social Security Administration (2004). The long-term earnings impact of sheltered and supported employment on 877 individuals with intellectual disabilities was investigated through the implementation of a comprehensive analytical framework for assessing employment outcomes for people with disabilities who have been served by a VR agency in a single state. Information on demographic characteristics, pre- and post-program earnings, and local economic conditions were merged to allow a comprehensive examination of the earnings outcomes of individuals who receive alternative types of VR services. Results indicated that people served in sheltered and supported employment differ in many ways from other individuals with intellectual disabilities successfully served by the VR agency. Individuals in the supported employment group were more likely to have worked in competitive, integrated employment prior to program entry as compared with their sheltered employment counterparts. The sheltered and supported employment groups differed slightly in terms of demographic characteristics. Earnings of the supported employment group were 250% greater than the sheltered employment cohort across a 1-year post program period. Supported employment also had a statistically greater impact on the earnings of people with disabilities than participation in sheltered employment.

A more recent study examined the effect of supported employment intervention on the employment outcomes of transition-age youth with intellectual and developmental disabilities served by the public vocational rehabilitation system using a case-control study design (Wehman, Chan, et al, 2014). Data for this study were extracted from the Rehabilitation Services Administration Case Service Report (RSA-911) database for fiscal year 2009. The sample included 23,298 youth with intellectual and developmental disabilities aged between 16 and 25 years old at the time of application. The classification and regression tree (CART) method was used to estimate propensity scores and to adjust for selection bias on the basis of all prominent covariates relevant to the dependent variable (i.e., competitive employment). Results yielded six homogeneous subgroups, and receipt of supported employment was found to increase the employment rates across all of the groups. The effect of supported employment was especially strong for youth who were Social Security beneficiaries, special education students, and individuals with intellectual disabilities or autism who were high school graduates. These findings suggest that supported employment is an effective service for enhancing the vocational rehabilitation outcomes of young adults and provides valuable information for policy makers, health care providers, rehabilitation counselors, and educators.

B. The Professional Standards for Integrated Employment

As I noted almost a decade ago, in assessing the promise of the Americans with Disabilities Act and the Supreme Court's *Olmstead* decision:

Supported employment emphasizes the benefits of individuals with significant disabilities having opportunities for real, integrated work as a primary option. All parties involved benefit from competitive employment. Such employment provides the individual with a disability a real job, benefits, and the dignity that arises from gainful employment. The employer gets a good worker and receives specialized support to train and maintain the individual. The family is able to see its family member in a fully competent role in the workplace. Finally, taxpayers spend less money than they would to support the individual in a segregated day program.

Competitive Employment: The First Choice, *Journal of Disability Policy Studies*, Vol 14., No. 3: 163-173 (2003) at 164.

The article went on to note that “[t]he goal of supported employment programs is to help people with the most significant disabilities to be successful in paid employment in the integrated work setting of their choice.” *Id.* at 165. To evaluate whether supported employment is achieving this goal, professionals, researchers, state officials, and federal agencies have applied various criteria or indicators. These include, among others: (1) interaction with non-disabled peers and community participation; (2) meaningful competitive employment in an integrated setting; (3) level and nature of supports; (4) employment of individuals with significant disabilities; (5) amount of hours worked weekly; (6) number of persons from program working regularly; and (7) integration and community participation. *Id.* at 166.

I was asked by the Special Master in a class action case to evaluate supported employment services for persons with I/DD who had been institutionalized in a large congregate setting operated by the District of Columbia, but who were now living in the community. I adopted and incorporated the criteria noted above into an evaluation instrument for assessing supported employment services. The results of my evaluation of a sample of class members whom the District defendants alleged were receiving supported employment services was used by the Special Master and then the Court to make judgments of whether these individuals actually were provided with supported employment in an integrated setting.

Virtually all research and evaluation of supported employment at least looks at the number of individuals working in an integrated setting, the amount of wages earned and hours worked, and the duration or stability of the employment situation.

Because federal agencies, most states, and virtually all disability employment professionals define supported employment services as the set of activities that happen predominantly at the employment site, these agencies, entities, and professionals necessarily measure supported employment by employment-related criteria, including whether the individual is receiving the minimum wage, whether s/he is working as much as reasonably possible and desired, whether employment supports are adequate, and

whether the person is in the most integrated setting, receiving the same benefits and employment opportunities as non-disabled peers.

C. Best Practices for Providing Employment Services to Persons with I/DD

In studying employment services for persons with disabilities over the past 35 years, it is clear that the initial model for vocational training was based upon the concept that persons with disabilities first should be trained to work and then, if the training was deemed “successful”, placed in an employment setting. The epitome of this “train then place model” is a sheltered workshop. Extensive research of this vocational model has demonstrated convincingly that this approach fails to achieve virtually all of its key objectives. In fact, less than 5% of persons in sheltered workshops or employment training centers ever moved on to work in an integrated setting.

Disability professionals, researchers, state officials, and federal agencies decided to invert the model by reversing the sequence of activities, and instead, place the individual with disabilities in an integrated employment setting and then train him or her on the job. Research on this approach has documented its remarkable success in achieving the primary goal of attaining and maintaining employment. This approach is now commonly referred to as supported employment.

From its inception in 1979, supported employment was aimed at immediate employment in an integrated setting. It specifically disavowed the pre-vocational approach of preparing persons with disabilities to work, and focused, instead, on immediate placement in an integrated employment setting. It accomplished this by first finding or developing a competitive wage job in an integrated setting and then building supports around persons with disabilities on the job site.

The first key activity in supported employment is a proper matching of the individual with the right job – one that s/he is interested in, qualified for, and, with support, capable of performing in a cost-effective manner. Then the supported employment provider must properly train the individual to perform the job in a timely and skillful manner. Third, the provider offers ongoing support after the individual is placed in the job. Finally, this support may be adjusted, and usually is tapered, as the individual becomes more familiar, skillful, and independent at the work site, allowing for job stability.

All four of these steps – and thus virtually all supported employment services – are provided at the work site. Without the integrated employment setting, there is no supported employment and no supported employment services. Preliminary activities that precede supported employment, like discovery and job development, are purposely designed to be: (1) time limited; (2) designed to result in a job as soon as possible; (3) a relatively small subset of all employment activities and supported employment service resources.

Most individuals with I/DD will need ongoing, long-term supports, all of which are provided in the employment setting. More intensive supported employment services

generally are required at the outset of job placement, usually for 4-26 weeks. During this period, the supported employment provider devotes considerable time to training, supporting, coaching, and assisting the individual with his/her new job. Subsequently, after the initial training and period of intensive support is completed, supported employment services typically involve less intensive but critically important support that are substantially less expensive.

V. Findings

The overriding problem with the Executive Order and the related documents that the defendants consider to be their Olmstead plan is the focus on providing services as opposed to meaningful opportunities for integrated employment. As evident from the definitions and service commitments in the EO, the reports and metrics for implementing the EO, the required services can be, and often are, provided to persons who remain in segregated settings. These plaintiffs are harmed the longer they are maintained in sheltered workshops as they lose the opportunity to earn a living, become more independent and more physically and emotionally healthy in real community employment settings. Services are the means to the end, which is integrated employment. Services that will provide relief will be provided in the form of situational assessment, job procurement, job site training and job site follow-along. The services described by the defendant will not provide relief unless they are actual integrated employment opportunities.

A. The Executive Orders

1. The definition of “Employment Services” in the EO is exceedingly broad and includes any service “intended to assist a person with I/DD to choose, get, learn, and keep work in an integrated setting.” This literally could include any type of service planning or support that involves employment, such as a career development plan or vocational assessment as defined in the EO. Even if all forms of service planning were excluded, employment services would still include any form of preliminary or pre-vocational activity. In fact, the plain meaning of this term presumably would include services provided to a person in a sheltered workshop, since historically these segregated settings have been presented as a place where an individual with I/DD learns how to work in an integrated setting.

Moreover, employment services, as defined in the Oregon EO, are insufficient to attain a goal of placing person with ID/DD into supported employment. Real supported employment services include, but are not limited to: situational assessment in real job settings, job placement into a job that matches the consumer’s interest, job site training on the job which meets the employer’s needs and satisfaction for production, and ongoing job support with on-site visitation and / or monitoring of performance as needed. The only way these services can be truly effective is if they take place in real community employment settings with real employers, customers and coworkers, not just excessive planning, preparation and prevocational activities.

The revised definition of employment services is still problematic. In fact, it makes no change to the original definition (“services *intended to assist* “ a person “*choose, get, learn, and keep work*”), other than further expanding an already expansive concept to include “any form of post-secondary education,” which itself includes all learning and training provided to any youth after leaving public school.

Perhaps most importantly, employment services are fundamentally different than employment supports in an integrated setting. Supported employment means just what it says: “Supported Employment”; in short, employment in a competitive setting where an individual earns at least a minimum wage, receives a paycheck from a competitive employer, and is provided support by an employment specialist as needed. Integration, at least as applied in Olmstead, was not merely an offer of a service – residential supports – but an outcome – a home in the community where L.C. could enjoy ordinary community activities and regularly interact with non-disabled citizens. In this case, the obligation is to ensure that individuals who are segregated in sheltered workshops are provided a free and equal opportunity to have a real job for a real employer in the Oregon business community.

While the new EO (Section IV(6)) attempts to clarify what counts as employment services, it reaffirms that preliminary services, even if provided in a segregated setting -- like an assessment of a person while in a sheltered workshop -- is sufficient. In fact, an individual could receive any of the first four types of employment services (IV(6)(a)-(d) and NEVER leave a sheltered workshop, to say nothing of ever working in an integrated setting.

2. The definition of “Integrated Employment Setting” is inconsistent with professional standards and best practices because it includes congregated work experiences. While the original EO did not require meaningful and ordinary interaction with non-disabled peers, the new EO attempts to address this glaring deficiency by requiring a level of interaction with non-disabled persons that is “typical to the employment setting.” This addition, while helpful, is still vague and, more importantly, would consider an employment setting to be integrated even if there is virtually no interaction and working with non-disabled peers if that is allegedly “typical” like a janitorial cleaning crew in an office building late at night.

Moreover, there is no provision, commitment, or outcome concerning the number of hours the person works each week, on average; the level or degree of integration; or the importance of benefits counseling activities to maximize economic benefits. Furthermore, there is no attention, requirement, or provision concerning job retention/tenure, and the contingencies or expected activities if employment is lost. There should be some provision describing the state’s responsibility and accountability if the individual loses employment, at least requiring that such individuals remain a priority for replacement, in order to ensure that work skills and interests not atrophy.

3. In the 2015 EO, there is a new definition of congregated work, called “Small Group Employment.” Integrated employment is supposed to be both individualized and

integrated, meaning that persons with disabilities work in typical business positions surrounded by nondisabled persons or customers. At one time in the 1980s, placing persons in group or congregated crews or enclaves was considered to be a form of supported employment. But over time, professional standards have changed, professional literature has demonstrated, that the individualized placements are more respectful, beneficial, and effective for both the person and the employer, than group placements. The ADA speaks to individual access for equal employment opportunity, not equal group access to work.

The original and new EO both consider crews and enclaves (Small Group Employment) as an appropriate form of supported employment, even though the crew may be composed entirely of persons with developmental disabilities, even though it may be a large (8 person) group, even though individuals can remain in this service indefinitely, even though the individuals are paid by their provider, not a competitive employer and do not receive the same benefits as similarly-situated non-disabled workers, and even if the individual's contact with non-disabled peers is limited to what is "typical" for persons with disabilities in that setting. The only positive changes in the new EO is that persons working in enclaves, crews, or groups must be paid at least the State minimum wage, and an acknowledgement that this program is clearly inferior, less appropriate, and less integrated than "Competitive Integrated Employment".

Small group employment, as defined by Oregon, is likely to be a terminal placement despite the fact that it requires a "goal" of Competitive Integrated Employment because there are no time criteria or commitment for implementing this goal or transitioning the person to individual employment. Moreover, group placement of "clients" into a job is based on their disability, not the context of the demands and requirements of the workplace. Nowhere in any of Oregon's employment definitions or plans is there any mention of the well-accepted professional employment strategy of clustered dispersal.

In Oregon and elsewhere, mobile work crews and (often sheltered) enclaves: a) are not individualized; b) are often contingent on the needs and availability of other workers in the crew; c) are stigmatizing; d) offer little opportunity for independent growth and development; e) frequently are operated by provider agencies, and even sheltered workshop providers, that have fiscal incentives, through contracts with other entities, to maintain the crews; f) result in employment relationships and paychecks from service providers, not competitive employers; g) lack most of the benefits and advancement opportunities of competitive employment; and h) are contrary to empirical data which shows that they do not lead to competitive employment. In effect, small group employment often is a smaller version of a sheltered workshop.

4. While the original EO did not even mention self-employment or define supported employment, the new EO includes definitions of both of these terms. However, the definition of "supported employment" inappropriately includes congregated enclaves and crews, renamed "Small Group Employment".

5. The revised EO reflects the new WIOA law that protects youth with ID/DD from having to enter sheltered workshops effective 2016, and bans new admissions as of July 1, 2015. But the EO fails to require school districts to move individuals with ID/DD into integrated employment by their last year of school or shortly thereafter, up to the age of 24 years.

6. The original EO projected that 2,000 adults will receive employment services over nine years. These numbers might be acceptable if the measure of success for each of the 2,000 individuals was Competitive Integrated Employment rather than preliminary employment services. However, the EO only provides that these persons will receive services and not integrated employment opportunities, and, as explained above, not the services that are most critical to job acquisition and retention. The total number of persons actually placed in competitive employment is not addressed at all by the EO. Instead, it will depend on unspecified actions by service providers, and whether providers are adequately trained, supported, and incentivized to help find integrated employment for persons with ID/DD.

It is noteworthy that the Statewide Employment Coordinator explained this huge increase as simply a different method of counting and analyzing the same services and service utilization that existed in 2013, when the original EO was issued. As he explained, in 2013, the State took a ‘snapshot’ of the number of persons in sheltered workshops at a given point in time; whereas in 2015, it decided to take a picture over time, measuring those who flowed through segregated services and left public schools over one year. As a result, the number of persons who are, or will be, segregated, or are at risk of segregation, is actually far larger than originally projected. Put another way, in the original EO, Oregon had underestimated significantly the actual number of individuals in sheltered workshops or at risk of entering workshops, as well as the charge level of separation for these individuals.

This re-analysis causes me to question the credibility of their initial and revised rollout plan, unless, of course, it reflects what the State is already doing. My research and 35 years of work in supported employment has taught me that each subsequent year it is actually more difficult to achieve larger numbers of supported employment placements, because some of the persons previously placed in integrated employment settings will need replacement and/or continued job coach support. It would be far preferable, more credible, and more consistent with the commands of the ADA and Olmstead to project the actual number – even if it is a smaller number – of persons who will receive employment opportunities in an integrated setting with more hours, more integration, and a more stable long term competitive employment experience than just promising large numbers of services that are not employment.

While I agree that the state cannot guarantee any Oregonian a job, the state can, but does not, make a credible commitment that, consistent with Olmstead’s requirement of actual integration, includes integrated employment. For instance, an appropriate plan could require that: “In 2015, 1,000 persons will receive supported employment services with 500-700 persons becoming competitively employed or self-employed in that year.” In

short, while the plan could include a larger number of persons receiving services, it also must include, to be consistent with professional standards, literature, and experience, a commitment that a substantial percentage of those individuals actually achieve meaningful community employment, if these services are adequate and competent.

In 35 years, I have never seen a person with ID/DD placed into competitive employment from a sheltered workshop request movement back into the sheltered workshop. What I have seen and heard (and research supports this (Migliore et al 2007) is that when asked, persons in sheltered workshops will indicate they want to leave and “get a real job”.

7. Perhaps the most troubling part of the EO plan is the failure to “shut the back door” or to purposely and professionally reduce the number of persons in segregated workshops and transition them to Competitive Integrated Employment. When persons with ID/DD are being placed into integrated employment, then it is imperative that people cannot be flowing into the workshops through the back door, either because the number of hours of competitive employment is so low that they continue to spend much of their working week in a segregated setting, or because the process of discovery, job development, and placement is so slow or unsuccessful that remain in a workshop for years. In other words, the EO should, but does not, include any commitment to reduce the number of persons in sheltered workshops over time in a similar ways as state institutions have been in many states through court orders.

B. The Integrated Employment Plan

1. In reviewing the initial Integrated Employment Plan (IEP), I looked first at their goals, how they set their goals and whether they seemed plausible.

The only thing I could see were five outcome measures with specific metrics for the first 1-2 years; beyond that there is only TBD (to be decided). This is not a ‘Plan’, and certainly not something that is reasonably calculated to reduce the level and amount of unnecessary segregation at a reasonable pace. While placing 2,000 individuals with I/DD in competitive employment – as opposed to simply providing employment services -- during this time frame is reasonable, the status of the community providers, (as well as secondary schools and transition specialists), their skill level, the funding mechanisms, what part of state people are located, parent and family training, business engagements all play an important role; these are all crucial variables that need to be addressed in more detail to demonstrate that there is a long term multi-year strategy in place.

Although nowhere mentioned in the IEP, it subsequently became clear, through the Statewide Employment Coordinator that some of the metrics (perhaps 1 & 2) included all individuals with I/DD on both of the State’s home and community-based waivers, although this understanding was contradicted by the Employment First data analyst who works with these metrics. Moreover, they agreed that the other three metrics (3-5) were limited to individuals on one waiver (Comprehensive), even though the individuals on the other waiver (Support Services) generally worked more hours and earned more money. This limitation effectively excluded almost 2/3 of all individuals with I/DD served by the

State. Thus, the baseline and annual projections for all of the metrics are flawed, and by the State's own admission, not reliable.

2. The recently revised IEP contains some additional outcome measures and metrics for some additional years, although there are still many measures (i.e. Strategy 1, Measure 3, and all measures in Strategies 2 and 3) that have no metrics and others which have metrics for only a few years. Moreover, there is little additional detail on the key omissions noted above – just a short update on activities undertaken to date.

The revised IEP does not include any increase in the number or percentage of individuals who will attain Competitive Integrated Employment (Measure 1), or the number who will work more than 10 or 20 hours (Measures 4 and 5), despite the census reduction projections for sheltered workshops. Equally troubling, the same flawed assumptions, omitted individuals, and unreliable projections that were used in the first IEP were retained in this version. Moreover, since service definitions have changed and data collection methods have been restructured, it is virtually certain that both the baseline and the annual projections for all of these metrics will have to be substantially revised. As a result, it is extremely difficult to evaluate the fidelity of the revised IEP and EO.

The inclusion of a new census reduction measure for sheltered workshops is significant and, if binding and reliable, could help cure the obvious omission in the EO noted above. However, not only is there no explanation in the IEP of how this reduction was calculated or will be achieved, but, most significantly, there is no commitment whatsoever (TBD) concerning how many of the projected 1,200 reduction will receive integrated employment. Absent such a commitment, this census reduction projection seems like exactly what Olmstead warned against – the wholesale depopulation of segregated facilities without a concomitant and proportional increase in integrated employment opportunities. In fact, this new projection creates a real and immediate risk of trans-institutionalization – the transfer of individuals from segregated workshops to segregated day facilities – that has occurred in some other states and appears to be occurring in Oregon. Moreover, this risk is not speculative – it was confirmed by the EF data analyst who stated that the entire reduction was calculated by counting the number of persons who left sheltered workshops annually and presumably would not return because of “closing the front door”, without regard to whether those who left and those who no longer could enter ever achieved integrated employment or, instead, were placed in another segregated day setting.

VI. Conclusion

In my professional opinion, based upon my experience as a researcher, disability professional, and program director, Oregon's EO and IEP, even as recently revised, are not an acceptable Olmstead plan. They are not consistent with professional standards nor the basic understanding of integrated supported employment. They do not seem reasonably calculated to *both* reducing unnecessary segregation in sheltered workshops and increasing the opportunities and supports for individuals with I/DD to work in integrated employment settings, consistent with their abilities, interests, and preferences.