



Disability & Mental Health Summit Legislative Panel
Disability
Thursday, May 11, 2023 | 2 p.m.
Hosted by
State Representative Dan Miller

PANEL ONE: RECOMMENDATIONS OF THE EMPLOYMENT FIRST OVERSIGHT COMMISSION

- Dr. Josie Badger, Employment First Oversight Commission
- Steven Suroviec, Employment First Oversight Commission
- Eve Hill, introduced by Katia Albanese, SEED Team
- Marci Katona, Office of Vocational Rehabilitation

PANEL TWO: SUPPORTS FOR COLLEGE STUDENTS WITH DISABILITIES

- Dr. Daphna Gans, Upper St. Clair School District
- Kristen Weidus, Esq., Ruder Law
- Jim Lilley, Office of Vocational Rehabilitation
- Heather Conroy, Evolve Coaching

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PANEL ONE: RECOMMENDATIONS OF THE EMPLOYMENT FIRST OVERSIGHT COMMISSION

Dr. Josie Badger, DHCE, CRC, received her Bachelor's degree from Geneva College in Disability Law and Advocacy, a Master's from the University of Pittsburgh in Rehabilitation Counseling, and a Doctorate from Duquesne University in Healthcare Ethics. In 2012, Dr. Badger was crowned Ms. Wheelchair America. In 2014 Josie founded J Badger Consulting Inc. where she provides youth development and disability consulting services. She is the National Transition Director for SPAN Parent Advocacy Network, working with RAISE and the National Healthcare Transition Center for Youth with ID/DD. She is the Campaign Manager of the United Way of Southwestern PA's #IWantToWork Campaign, to improve the employment of people with disabilities, is the lead Field Organizer for the Family Care Act that supports paid family leave, and is the developer of TRAIL, a statewide advocacy and lobbying training program. She serves as the Secretary of FISA and co-chair of the Grants Committee. Josie recently founded PEACOCK a nonprofit that will further support the needs of the disability community and diversity, equity, inclusion, and access. With this new initiative, she hopes to be able to support the work of a new commission on men's mental health.

Stephen Suroviec Stephen Suroviec is the President and CEO of Achieva. He is on the PA Employment First Oversight Commission and served as its Chair from January 2021 through January 2023. Before joining Achieva in December 2017, Steve held a number of non-profit and public sector leadership positions, including Chief Operations Officer and Division Director for Intellectual/Developmental Disabilities at the Rehabilitation and Community Providers Association, Special Advisor to the PA Secretary of Human Services for Employment First Policy, PA's Deputy Secretary for Developmental Programs, Executive Director of the PA Office of Vocational Rehabilitation, Executive Director of The Arc of Pennsylvania, and Director of the Erie County Department of Human Services. He also worked in a number of positions within the Ridge Administration and as a Legislative Assistant to then-Congressman Tom Ridge. Steve served as a presidential appointee to the President's Committee for People with Intellectual Disabilities from 2006-08. Steve served honorably in the United States Air Force and holds a Master's Degree in Public and International Affairs from the University of Pittsburgh.

Eve Hill, J.D., is one of the nation's leading disability rights attorneys. As a partner at Brown Goldstein & Levy, which she joined in 2017, she continues to pursue her devotion to civil rights. Her wide-ranging experience complements the firm's dedication to high-impact disability rights cases and its advocacy on behalf of individuals with disabilities and their families. Eve is co-leader of [Inclusivity](#), BGL's Strategic Consulting Group. She is also a member of the State Exchange on Employment and Disability (SEED)

Team where she researches and drafts policy options for state policymakers interested in advancing employment opportunities for people with disabilities.

From 2011 to January 2017, Eve served as Deputy Assistant Attorney General of the U.S. Department of Justice, Civil Rights Division, where she was responsible for oversight of the Division's disability rights, education, and Title VI enforcement and the American Indian Working Group. She was part of the negotiating team for the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled; testified before the Senate Foreign Relations Committee to support ratification of the U.N. Convention on the Rights of Persons with Disabilities; enforced accessibility requirements for websites and other digital technology; implemented Olmstead community integration requirements in employment and education; and enforced disability rights in education, testing, and health care.

Eve is the former Senior Vice President at the Burton Blatt Institute of Syracuse University, where she was responsible for the Institute's work on the Americans with Disabilities Act, disability civil rights, and communications issues.

Preceding her employment at the Burton Blatt Institute, Eve was the District of Columbia's first Director of the Office of Disability Rights, responsible for ensuring compliance with the ADA throughout District government. This position gave Eve an insider's view on investigations of complaints, informal dispute resolution, litigation consultation, training, and disability policy development.

As the Executive Director of the Disability Rights Legal Center at Loyola Law School, Eve managed all aspects of this non-profit disability rights organization and supervised all major programs, including the Civil Rights Litigation Project, Disability Mediation Center, Cancer Legal Resource Center, Community Outreach Program, and Education Advocacy Project.

Marci Katona, M.Ed., CRC, has worked for the PA Department of Labor & Industry Office of Vocational Rehabilitation (OVR) for 23 years. In February 2023, Marci was appointed to the position of Bureau Director for OVR's Bureau of Vocational Rehabilitation Services (BVRS), where she is responsible for overseeing the Bureau's program operations for its 15 district offices statewide. Prior to this role, Marci was the District Administrator for Pittsburgh BVRS from June 2011 to March 2022 and Acting Bureau Director for BVRS from March 2022 to February 2023. In her 23 years at OVR, Marci has also worked as a Vocational Rehabilitation Intern, Vocational Rehabilitation Counselor, Vocational Rehabilitation Supervisor, Assistant District Administrator and Western Regional Manager.

Marci received a bachelor's degree from Juniata College and a master's degree in Counselor Education, Rehabilitation Counseling from Penn State University, and is a nationally Certified Rehabilitation Counselor. Some of Marci's accomplishments include: chairperson for the Allegheny County/City of Pittsburgh Transition Coordinating Council; steering committee member of UPMC Project SEARCH; member of the University of Pittsburgh Rehabilitation Counseling Advisory Board; board member of the local workforce investment board, Partner4Work; member of the United Way of Allegheny County's 21 and Able Advisory Committee and Working Group; and 2015 recipient of the Pennsylvania Rehabilitation Association's Philadelphia Founders Award.

Outside of OVR, Marci enjoys running, the outdoors, walks with her dogs, and enjoying life with her wife, their 3 kids, and family.

PANEL TWO: SUPPORTS FOR COLLEGE STUDENTS WITH DISABILITIES

Daphna Gans, Ph.D., is a health policy expert focusing on health policy, health access, health care delivery, quality improvement, programming, and evaluation research. Dr. Gans' work addresses nonmedical interventions for treating children with Autism, access to quality care for persons with developmental disabilities, equitable access to healthcare among underserved minority individuals and individuals with limited English proficiency, service delivery modules of care for children with special health care needs and life-limiting conditions, and programming for the geriatric population and persons with Alzheimer's Disease. A published author and sought-after speaker, Dr. Gans' body of work was influential in shaping and sustaining the state of California services for persons with disability. Her collaborative work with colleagues at UCLA and UC Berkeley on the California Microsimulation Model informed decisions related to the Affordable Care Act implementation. Dr. Gans served as Associate Research Professor at the David Geffen School of Medicine, Adjunct Assistant Professor at the UCLA Fielding School of Public Health, Assistant Director for Academic Programs for the UCLA Multicampus Program in Geriatrics Medicine and Gerontology, and Faculty Associate at the UCLA Center for Health Policy Research. In Pittsburgh, Dr. Gans serves as Board Director and chair of the Quality Committee at the Jewish Association on Aging, and she is the President of the Board at Upper St. Clair School District. She has a proven track record of successful research, evidence-based programming, consulting, teaching, and advocacy.

Kristen Weidus is a Partner at Ruder Law and is licensed to practice in the United States District Courts in the Western, Middle, and Eastern Districts of Pennsylvania, as well as the United States Court of Appeals for the Third Circuit. Prior to joining the firm in 2015, she was an associate attorney for a general practice law firm in Greensburg, Pennsylvania. As a resident of Greensburg, Kristen remains active in the Westmoreland Bar Association, currently serving on its Board of Directors and formerly chairing the Young Lawyers Committee and the Membership Committee. She received the Westmoreland Bar Association's Outstanding Young Lawyer Award in 2016, and currently serves as a Zone 6 Delegate in the Pennsylvania Bar Association's House of Delegates. Kristen was also selected as a Pennsylvania Rising Star by SuperLawyers in 2021 and 2022.

Kristen graduated Magna Cum Laude from the University of the District of Columbia David A. Clarke School of Law in Washington, DC in 2012. She worked as a law student attorney in the Took Crowell Institute for At-Risk Youth, representing students with disabilities enrolled in the DC Public Schools. She also served as President of the Women's Law Society, Articles Editor for the Law Review, and President and Founder of the UDC-D CSL Disability Rights and Advocacy Society.

Kristen graduated Cum Laude from Hiram College in 2009 and is currently the President-Elect of Hiram's Alumni Executive Board. Beginning in 2000, she worked for the HELP Foundation Summer Program, an extended school year program that serves children with disabilities in Northeast Ohio.

Jim Lilley, M.S., is the Acting Assistant District Administrator with the Pittsburgh District Office of the PA Department of Labor & Industry's Office of Vocational Rehabilitation (OVR) Bureau of Vocational Rehabilitation Services. He has been in this role since May 2022. Jim began his tenure with OVR in 2010, starting as a Vocational Rehabilitation Counselor in the New Castle District Office and later as a Supervisor. He transferred to the Pittsburgh District Office in 2019 as a Supervisor. During this time, Jim has served as a Counselor for individuals with Mental Health, as well as Deaf & Hard of Hearing and as a Supervisor in the areas of Pre-Employment Transition Services, Deaf and Hard of Hearing Services, Assistive Technology, and Supported Employment Services. Jim is a member of the College Policy Workgroup and the Audiology Policy Workgroup. He serves as OVR's liaison with the Pittsburgh Public School Local Task Force and the AIU3 Local Task Force, as well as a member of the Allegheny County 21 and Able Advisory Committee. Jim has recently been asked to join Goodwill of Southwest PA's Project LIFE Steering Committee.

Jim is a graduate of East Carolina University in Greenville, North Carolina with a Master of Science degree in Rehabilitation Studies with a dual emphasis in Rehabilitation Counseling and Vocational Evaluation. Prior to coming to OVR, Jim has worked in Community Rehabilitation Programs and in Private Rehabilitation.

Outside of OVR, Jim enjoys hiking and cycling. He is the proud father of 4 adults and Papa J to the greatest 3 grandkids.

Heather Conroy is the Co-Founder and Executive Director of Evolve Coaching. She is a Licensed Clinical Social Worker who, since 2006, has worked with children, adolescents, and young adults seeking support with communication and organization. Primarily, her focus has been supporting students as they navigate the demands of college environments. She enjoys helping young adults make strides towards reaching their full potential by empowering clients to self-advocate and develop personal strategies for success.

[Annual Disability Statistics Compendium: 2021](#)

2021 PA Data

13.8% of Pennsylvanians have disabilities

27.5% of working-age Pennsylvanians with disabilities live in poverty.

Philadelphia County has the commonwealth's largest number of PWDs and Forest County has the highest concentration of PWDs (28.4%)

[U.S. Bureau of Labor Statistics — 2022](#)

Employment rate

- PWD 21.3% in 2022, 19.1% in 2021
- PW/OD 65.4% in 2022, 63.7% in 2021.

Unemployment rate

2x for PWD as for PW/OD

Self-Employed

9.5% PWD versus 6.1% PW/OD

Act 36 Summary and Purpose

In 2018, Governor Wolf signed a bipartisan bill, with unanimous support from the General Assembly, into law. Act 36 of 2018 is known as the Employment First Act

Purpose - “ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings.”

Employment First sets forth that:

- Competitive-integrated employment is the preferred outcome for all Pennsylvanians
- Any state and county agency and entities using public funds is required to make sure that Employment First is effectively implemented
- State and county agencies will work together to ensure that resources are managed and allocated efficiently for the support of Employment First.

Section 6 of Act 36 creates the Pennsylvania Employment First Oversight Commission. The Commission is charged with:

- Establishing measurable goals and objectives governing the implementation of the Act
- Tracking the measurable progress of public agencies in implementing the Act, and
 - o Issuing an annual report that:
 - Details the progress made on each of the measurable goals and objectives during the preceding fiscal year, and
 - Includes recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

PA Employment First Oversight Commission – Current Membership as of May 5, 2023

Seat Name as Required by Act 36 of 2018	Member Name	Appointing Authority
Person with a Disability	Heidi Tuszyński	Office of the Governor
Person with a Disability	Josie Badger (CHAIRPERSON)	Office of the Governor
Parent	Amiris Dipuglia MD	Office of the Governor
Parent	Richard S. Edley	Office of the Governor
High School Students	Mary Hartley	Office of the Governor
High School Students	Cheryl Bates-Harris	Office of the Governor
Disability Rights Pennsylvania Representative	Dale Verchick (SECRETARY)	Office of the Governor
PA Rehabilitation Council Representative	Cynthia Duch	Office of the Governor
Statewide Independent Living Council Representative	Susan L. Tomasic	Office of the Governor
Pennsylvania Client Assistance Program Representative	Andrew C. Pennington	Office of the Governor
Organization that provides competitive employment services	Stephen H. Suroviec (IMMEDIATE PAST CHAIR)	Office of the Governor
Organization partnering with a private business or state agencies	Lisa Biggica	Office of the Governor
Senate President Pro Tempore	VACANT	President Pro Tempore
Senate Minority Leader	Julia Barol (VICE CHAIR)	Senate Minority Leader
Speaker of the House of Representatives	Susan M. Tachau	Speaker of the House
House Minority Leader	The Honorable Daniel L. Miller	House Minority Leader

**Testimony of Stephen H. Suroviec, PA Employment First Oversight Commission
(Current Member & Former Chair from January 2021 – January 2023)
Before Disability and Mental Health Summit 2023 Legislative Panel
At Beth El Congregation, 1900 Cochran Road, Pittsburgh, Pennsylvania
On May 11, 2023**

Thank you for this opportunity to provide testimony to this panel of state legislators on the topic of “Employment First” and recommendations contained in the most recent annual report by the PA Employment First Oversight Commission (EFOC). My name is Steve Suroviec – I’m the President and CEO of Achieva, which is a Pittsburgh-based disability advocacy and services organization. I am a current member of the PA Employment First Oversight Commission (EFOC), and I served as its Chair for two years – from January 2021 through January 2023. I’d like to thank Representative Dan Miler for inviting me to testify on this topic, and for his long-standing commitment to people with disabilities.

“Employment First” is the policy of the Commonwealth of Pennsylvania as outlined in Act 36 of 2018. It means that competitive-integrated employment shall be the “first consideration and preferred outcome” of publicly-funded programs like education, employment, training, and long-term supports and services serving working-age Pennsylvanians with disabilities. Competitive-integrated employment (CIE) is a fancy term for a job where the worker with a disability works in a typical workplace in the community alongside people with and without disabilities (mostly people without disabilities) and is paid at least minimum wage. In the simplest terms, CIE has to have to pieces – integration (working with people without disabilities) and competitive wages (minimum wage or higher). Essentially, CIE is the opposite of what is commonly referred to as a “sheltered workshop”, where people with disabilities are typically segregated, working with other people with disabilities, and are (legally) paid subminimum wage.

Section 6 of Act 36 of 2018 is the state law that created the EFOC, which consists of mostly executive branch and some legislative branch appointees. The EFOC is statutorily charged with the following:

1. Establishing measurable goals and objectives governing the implementation of the Act
2. Tracking the measurable progress of public agencies in implementing the Act, and
3. Issuing an annual report that:
 - Details the progress made on each of the measurable goals and objectives during the preceding fiscal year, and
 - Includes recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

The October 2022 Report is the EFOC's fourth report since first being convened in early 2019. My role today is to discuss the contents of the October 2022 Report, and then answer any questions you may have.

The October 2022 Report includes 11 measurable goals and objectives, and 31 specific recommendations. The following is the list of 11 measurable goals and objectives contained in the October 2022 Report:

1. **By 2022, 30% of working age individuals (ages 18-64) who are on an Intellectual Disability/Autism waiver (ID/Autism)(enrolled with ODP) will have Competitive Integrated Employment.**
 - As of October 2022, it stands are 17%.
2. **By 2022, 3000 more individuals (ID/Autism) who have an employment goal in their ODP Individual Support Plan (ISP) will be receiving employment services.**
 - As of October 2022, 13,640 had employment as a goal in their service plan but only 5,597 had an authorized employment service. The number with authorized employment services increased only by about 150 over two years.
3. **Within one year, 100% of all referrals to the Office of Vocational Rehabilitation (OVR) through Pennsylvania's 511 efforts¹ (persons requesting to leave sheltered workshops) will either achieve CIE, have an OVR Individualized Plan for Employment (IPE) in place with employment services authorized and being delivered, have an Individualized Support Plan through the Office of Developmental Programs (ODP) or Community HealthChoices (CHC) with employment as a goal and employment services authorized and being delivered, or have been referred to a Work Incentives Planning and Assistance (WIPA) for benefits counseling.**
 - Data included in the October 2022 report indicated that 314 sheltered workshop participants expressed interest in CIE, yet two-thirds had their case closed (either "closed, ineligible", "pre-application closure" or "closed unsuccessfully before services") by OVR. 3 were either "closed successfully", "successfully rehabilitated", or "in employment"; another 11 were receiving

¹ Section 511 of the Workforce Innovation and Opportunity Act Requires state Vocational Rehabilitation Offices to visit sheltered workshops and provide information to participants about competitive-integrated employment services and opportunities.

“counseling and guidance”; 24 were in “training”; 17 were in a “trial work experience”; the remainder were in other OVR statuses.

4. Annually decrease segregated employment by a minimum of 10%. Map by county, the total number of individuals served by state and local dollars in competitive-integrated employment services versus number of individuals receiving services in a facility with a 14c certificate funded by state and local dollars.

- Data was not available for inclusion in October 2022 report. This was due largely to confusion in terms of understanding all of the several licensed settings in which subminimum wages may be paid, and the lack of data collection by the state of wages earned by people receiving state-funded services that support subminimum wage activities.

5. By 2022, no student who is being educated in an inclusive setting will transition to a more segregated setting (i.e. from pre-school to school age; school age to middle school; middle school to high school).

- Data not provided from the state; but, the EFOC believes that a child’s success in an inclusive setting should indicate future success, especially given the right educational program supports.

6. By 2022, 20% of all high school graduates (senior year up to age 21) receiving transition services from PDE, OVR and/or ODP will be competitively employed in an integrated setting within 3 months of graduation.

- The state Department of Education (PDE) did not provide a percentage, but did report that 13,814 students were employed upon exiting high school.

7. Each year, the Commonwealth will steadily increase access to competitive-integrated public and private employment for high school students with disabilities with funding and/or support from either OVR or PDE. This can be in the form of a Work-Based Learning Experience or a job with job coaching and/or other supports. First year goal 2000 students; Second year goal 2500 students; 3rd year goal 3000 students.

- PDE reported that 9,387 students participated in a CIE paid work experience and 9,810 participated in individual job coaching services funded by the school in a paid work experience. The EFOC will need to recalibrate this measurable goal this year.

8. **Annually each of the CHC managed care organizations (AmeriHealth Caritas, PA Health and Wellness, Keystone First, UPMC) will increase by 50 percent the number of working-age participants who are either employed in CIE, receiving CHC-funded employment services, or are documented to have been referred to either OVR or a Work Incentives Planning and Assistance (WIPA) program for benefits counseling.**

- As reported by the Office of Long-Term Living (OLTL), there were 58,689 people ages 21-64 enrolled in CHC, but only 433 were employed in CIE. This was up from 266 reported in last year's report, but 433 represents only 0.74 percent of working-age CHC participants. And, only 1074 participants (1.8%) had an employment goal in their person-centered support plan. Of those, only 205 had employment services authorized (i.e., 20% of those with an employment goal in their plan).

9. **The state Office of Mental Health and Substance Abuse Services (OMHSAS) will annually report and employ at least 600 additional people receiving services to employment.**

- Data was not provided to the EFOC on the number who had CIE. It did received data on the number of people receiving employment/vocational services, which was 1,347 statewide.

10. **By 2022, the Pennsylvania state workforce (includes state agencies and state colleges/universities) will exceed a 7% hiring goal.**

- In 2019, the Governor's Office of Administration (OA) told the EFOC that 4.8% of survey respondents (state employee survey) indicated they had a disability (no employee-wide survey has been completed since). In 2022, OA reported that 6.2% of applicants for state employment reported having a disability, and 5% of new hires reported having a disability. These data do not include the state colleges and universities.

11. **All counties will have (or be part of) at least one Local Cross-Disability Employment Coalition.**

- As of July 2022, 54 of 67 counties have created or participate in an existing local-level interagency employment coalition. This was the same number as the previous year.

In terms of the recommendations, the EFOC's October 2022 report includes 31 specific recommendations. The report groups the recommendations by legislative and executive branch recommendations. Those for the executive branch are grouped by department, including ones for the Governor's Office.

All 31 can be found in the October 2022 Report, and so I'm not going to recite all of them here, but rather I will focus on the recommendations in the report that involve the General Assembly specifically, which include the following:

Recommendation. That rates for supported employment services paid via ODP and OLTL (CHC) be increased, and that it's done annually, so that there is no longer a financial disincentive for providers to deliver CIE-related services. For ODP, rates were last increased in January 2022 – three of the four supported employment service codes received only a 0.9% rate increase – at the time, that increase was the first in five years! And ODP regulations do not require that rates even be looked at any sooner than at 3-year intervals. In OLTL's CHC program, the numbers of participants working or receiving employment services are poor - one of the complaints often heard is that rates are low and few if any providers want to get into the business of providing employment services. With labor cost inflation, fuel inflation, health care inflation, etc., rates should at the very least keep up with inflation, and providers should be able to count on annual rate increases, not increases every 5 to 8 years. Act 36 requires that providers being financially incentivized to increase CIE outcomes, yet a less-than-1-percent rate increase in six years is not a financial incentive.

Recommendation. That state contractors under Section 520 of the Procurement Code be prohibited from delivering goods and services using subminimum wage labor under 14c certificate authority (if this can be done without statutory change, then the Commission recommends that the PA Department of General Services implement the change administratively); in addition, that the General Assembly review whether and to what extent the direct labor percentage requirement of 75% contained in Section 520 of the Procurement Code may be inconsistent with the Employment First policy established by Act 36 of 2018; and, that the General Assembly consider reducing the direct-labor percentage in a manner that promotes integrated work settings as defined by the Act. Section 520 provides a “no competitive bid” construct that enables businesses that affirmatively employ workers with disabilities to secure state contracts for products and services at a fair market price as determined by the PA Department of General Services (DGS). Current law requires that 75% of the direct labor used to make the products or deliver the services must be people with disabilities. The 75% direct labor ratio has led to questions of how competitive-integrated employment can be achieved when 75% of direct labor employees make up the workforce per contract. While most businesses operating under 520 pay competitive wages, a few still utilize federal 14c certificates to pay subminimum wage (estimated under 2% of direct labor). By ending subminimum wage for Section 520 contracts and revising the direct-labor ratios, the benefits of 520's affirmative employment for Pennsylvanians with disabilities would continue and only jobs that provide competitive wages and integrated (not segregated) work environments will be advanced. For illustration purposes, one approach might be to establish a minimum and maximum direct-labor percentage (with a time-limited margin of error permitted so a company doesn't become ineligible if the percentage briefly goes under or over the designated ratio ranges). The Commission believes any

direct-labor ratio that results in or has the effect of promoting congregate work settings where the majority of all workers in a work environment have disabilities is inconsistent with Employment First policy and should be discouraged.

Recommendation. That Act 36 of 2018 be amended to create and fund the position of “Executive Director, Employment First Oversight Commission” that is a salaried state employment position, located either in the Governor’s Office, Department of Labor and Industry, or Department of Human Services. The EFOC is now in its fifth year, and it has become clear that given the complexities of the disability employment issue, policy considerations, data demands, and agency coordination requirements to fulfill the requirements of the Act, the EFOC’s duties as outlined by the Act require dedicated staff to perform in a manner consistent with the expectations of the legislature. Convening and preparing for Commission meetings and the meetings of its committees, requesting, analyzing and monitoring data requests of the executive branch agencies, reviewing and analyzing employment first plans published by the executive branch as required by the Act, and drafting, finalizing, and publishing the Commission’s annual report are the kinds of duties and responsibilities that are simply too much for volunteer Commissioners. If the legislature wants the EFOC to be effective, a dedicated paid staff member is needed. In the alternative, contracted staff support to perform the aforementioned duties, paid for by either Department of Labor and Industry or Human Services, might suffice.

Recommendation: That the Employment and Unemployment Subcommittee of the House Labor and Industry Committee and the Disability Employment and Empowerment Caucus hold annual hearings to examine employment data, employment service utilization, and employment outcomes for working-age participants in the CHC program. In its testimony, OLTL should be asked to delineate the steps it has taken during the last year to increase employment outcomes for its working-age CHC participants and the results of those steps. According to its own data, OLTL is not making adequate progress when it comes to increasing employment service utilization and employment outcomes for working-age people with disabilities served in CHC. Data reported for the 2022 EFOC report continue to show low outcomes.

According to data provided by OLTL, very few participants in CHC are working and/or receiving employment services. There are 58,689 working-age people enrolled in CHC, but only 433 have a competitive-integrated job (less than one percent, at 0.74%). And only 1074 participants have an employment goal in their Individualized Service Plan (1.8%).

While the CHC MCOs, as well as OLTL, are quick to point out the many current and historical barriers to employment within the diverse population being served, there are basic concrete advances that could be

made. For example: improving the rates paid to employment service providers, and matching them to similar employment services paid by other programs within DHS like ODP; addressing the dearth of OLTL employment providers by specifically incentivizing ODP employment providers to become OLTL-approved; and, implementing (at least piloting) innovative value-based purchasing (VBP) strategies rather than relying strictly on traditional fee-for-service. (Regarding VBP, data exists showing that individuals gaining employment will show decreases in behavioral and physical health utilization and costs. The tracking of those indicators could be part of the VBP solution.)

Recommendations. That the General Assembly study and issue a report on the return on investment of the Office of Vocational Rehabilitation’s Hiram G. Andrews Center (HGAC) as compared to traditional customer services delivered by OVR. There are only 7 other known facility-based programs remaining in existence like HGAC nationally. The Commission continues to believe an in-depth review of this facility-based program and its return on investment (ROI) ought to be conducted by the General Assembly. Approximately \$23 million is directed from OVR’s traditional services to fund this 24/7 campus operation. OVR’s per-customer cost for HGAC students is significantly higher than its traditional customers, yet it is unclear what value graduates of HGAC are getting as compared to OVR’s traditional customers or OVR customers who attend typical post-secondary vocational programs. The review should consider whether these resources could be effectively re-directed to traditional OVR services and/or regional or county career technical programs and/or community colleges where individuals with disabilities can learn alongside other students, which will enhance their skills to work and live in their community. This recommendation has been included in each of the four EFOC reports.

Recommendations. That the General Assembly pass legislation and the necessary funding that requires each school district to have (according to population size) one or more full-time dedicated and highly qualified and/or credentialed Transition Coordinator to support employment, and requires the Pennsylvania Department of Education to ensure compliance with that requirement. The EFOC understands that meeting staffing needs at the local education agency (LEA) level is challenging and mandating certain positions will cost money, yet at the same time the EFOC believes that the status quo fails to deliver on Employment First policy as established by the legislature in Act 36 of 2018. Too many LEAs assign “transition coordinator” responsibilities as an “additional duty” to staff who have other full-time jobs within the LEA. Simply “complying” with current rules to have a transition coordinator is not getting the job done. Based on the size of the student population served, LEAs should have at minimum one transition coordinator whose full-time role is to perform transition coordinator duties, individualizing

community based activities, especially employment. The new requirement should be supported with new financial resources.

Recommendation. That the General Assembly amend Act 36 of 2018 or the state Civil Service Reform Act to remove roadblocks to employment and ensure access and inclusion for people with disabilities to be hired by state government agencies. By creating something similar to the federal government’s “Schedule A” process (a special hiring authority that gives federal agencies an optional, and potentially quicker, way to hire individuals with disabilities; applying under Schedule A offers an exception to the traditional competitive hiring process; available to applicants with an intellectual disability, a severe physical disability or a psychiatric disability), qualified applicants with a disability would have bureaucratic barriers eliminated or mitigated, giving them access to good jobs in state government. It may be possible for the Executive Branch to implement such improvements without legislation, but it remains unclear and the General Assembly may want to hold hearings on this topic. Finally, in addition, if the General Assembly pursues such legislation, it ought to also include a section that implements the Commission’s recommendation on “customized employment”, which is simply to permit state agencies to create a “customized employment” job classification beyond the current OA pilot of customized employment, which would enable people with disabilities to be hired who can perform some of the duties listed in a canned job description but not all - developing a “customized” position that marries the abilities of a person with a disabilities with the needs of a state agency would create employment opportunities for otherwise qualified applicants with disabilities who, due to the disability, may be able perform some duties but not all as arbitrarily written into a state job description. (OA is piloting one customized employment position in the Department of Revenue, which is commendable; yet, the EFOC believes the model should be taken to scale in a timely manner across all state agencies – legislation would help make this happen.)

Again, there are many more recommendations for executive branch agencies contained in the EFOC October 2022 Report and I would encourage members of the General Assembly to take a look at them to get a sense of the breadth and depth of the issues that are impacting this very important issue.

This concludes my testimony. Thank you for attending this legislative forum on the topic of employment for people with disabilities and “employment first” public policy and your interest in this very important topic. I’d be more than happy to answer any questions you may have.

###



PENNSYLVANIA EMPLOYMENT FIRST
Oversight Commission



2022 Report to Governor Wolf and the General Assembly

October 1, 2022

"Employment First ...competitive integrated employment is the first consideration and preferred outcome of publicly funded education, training, employment and related services, and long-term services and support for individuals with a disability."

- Act 36 of 2018

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I. Introduction

A. Act 36 Summary and Purpose

In 2018, Governor Wolf signed a bipartisan bill, with unanimous support from the General Assembly, into law. Act 36 of 2018 is known as the Employment First Act [PA Law 229]. The purpose of the Employment First Act (Act 36) is to “ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings.”¹

Act 36 defines Employment First and makes it the official policy of Commonwealth agencies. It addresses several key principles of Employment First regarding access for all Pennsylvanians with disabilities and insists on policy that states:

- 1) Competitive-integrated employment is the preferred outcome for all Pennsylvanians with disabilities receiving most forms of publicly-funded services
- 2) Any state and county agency and entities using public funds (education, training and employment related services, long-term services and supports) is required to make sure that Employment First is effectively implemented, and
- 3) State and county agencies will work together to ensure that resources are managed and allocated efficiently for the support of Employment First.

B. How This Report Fits into Act 36 Requirements

Section 6 of Act 36 creates the Pennsylvania Employment First Oversight Commission (Commission, or EFOC), which consists of mostly executive and some legislative appointees. The Commission is statutorily charged with the following:

- Establishing measurable goals and objectives governing the implementation of the Act
- Tracking the measurable progress of public agencies in implementing the Act, and
- Issuing an annual report that:
 - Details the progress made on each of the measurable goals and objectives during the preceding fiscal year, and
 - Includes recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

II. The Past Year

A. COVID-19 Pandemic

The national and state public health emergencies (declared in early March 2020) continued into the twelve-month period covered by this report. In late fall of 2021, the COVID-19 “Delta variant” started to spread and caused case numbers to increase significantly into winter 2021/22. Generally, people who were able to be vaccinated did not experience severe symptoms or death as a result of contracting the virus. Some municipalities and businesses reinstated certain mandatory mitigation steps and restrictions, continuing uncertainty and disruptions in the economy and job market. COVID case numbers started to drop in February 2022, but supply chain disruptions in the economy were cemented, and in ensuing months inflation started to increase rapidly, hitting a 40-year high. In particular, wage inflation impacted business hiring decisions throughout the past 12 months. That said, national data indicates that the labor participation

¹ <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2018&sessInd=0&act=36>

rate and employment-to-population ratio for people with disabilities are both higher compared to the same time 12 months ago.²

B. Appointments

All of the appointments as outlined in Act 36 were filled during the past year with the exception of the one available to the Senate President Pro-Tem (which has yet to be filled since the EFOC was first convened in early 2019). The Commission feels strongly that this seat needs to be filled in order to be able to fulfill the duties as envisioned by the General Assembly when Act 36 was passed. We look forward to an appointment by the Senate President Pro Tem in the very near future.

C. Supported Employment Rates

The Department of Human Services (DHS) published proposed rates early in 2022 for services covered through its Office of Developmental Programs (ODP). The increase for Supported Employment services was 0.9%. Supported Employment is the primary service offered through ODP's Medicaid Home and Community-Based Service Waivers that helps people with intellectual disabilities and autism in getting and keeping competitive integrated employment (CIE). This was the first rate increase for Supported Employment since 2017. ODP's 6100 regulations do not require annual rate increases to keep up with inflation; rather, the regulations only require ODP to consider increases once every 3 years. So, it is conceivable that Supported Employment will not get another increase for 3 years (1 2025) at the earliest. That is 8 years Supported Employment service providers would have to live with a rate that only saw a 0.9% increase during that time.

Act 36 of 2018 established "employment first" as the commonwealth's policy, and Act 36 is clear that the state is required to provide financial incentives to promote competitive integrated employment if permitted by federal law. Members of the EFOC were concerned with the less-than-one-percent rate increase proposed by ODP, which is why it passed a resolution asking the DHS Secretary to revisit Supported Employment services rates before finalizing them (see resolution in appendices section).

On March 1, Acting Secretary of Human Services Meg Snead responded to the EFOC with a letter (see letter in appendices section), indicating that DHS would not increase the Supported Employment service rate and that the Medicaid waiver approved by the federal government did not provide for financial incentives. In fact, ODP establishes rates by using an external financial consultant that considers what they believe to be relevant data for purposes of establishing rates for services for which the state reimburses. In this case, DHS uses a company called Mercer. After Mercer enters what they believe are data, they come up with a range – a low end range and a high-end range of what the data would support. In other words, Mercer gives ODP the lowest possible rate the data would support, and they give ODP the highest possible rate the data would support. It is then a policy decision by ODP to pick a rate in between the low and high ends of the range.

A "Right To Know Act" request was submitted requesting from DHS all documents and information that informed ODP's policy decision to give Supported Employment services only a 0.9% rate increase. The state complied with the request. Included was the rate range provided by Mercer to ODP for Supported Employment services. According to the Mercer document, the data would have supported a policy decision by DHS (allowable under the existing approved Medicaid waiver) to increase Supported Employment service rates by as much as 36 percent. Instead, DHS chose a 0.9% increase as a matter of policy. The EFOC is not necessarily saying that Supported Employment service rates should have increased by 36%, but

² <https://kesslerfoundation.org/press-release/ntide-july-2022-jobs-report-employment-remains-high-people-disabilities-despite-july>

DHS had the policy-making authority to raise them significantly more than 0.9%. Employment service providers have shared with the Commission that a 36% rate increase – even a 10% rate increase – would have been considered a financial incentive”. A less-than-one-percent increase is clearly not a financial incentive to providers to deliver the services necessary to achieve CIE - indeed, it’s a disincentive. The EFOC believes the PA DHS failed to honor the letter and spirit of Act 36 of 2018 with its less-than-one percent rate increase over a period of 5 years and by failing to modify the rate after the Commission adopted a resolution requesting the Secretary of Human Services reconsider in light of the policy established by the legislature in the Employment First Act.

D. Innovative Initiatives

1. Business Associate in Industry Initiative

The PA Office of Developmental Programs (ODP) directed a portion of American Rescue Plan (ARPA) funding toward an innovative concept it called “Business Associate in Industry” (associate) that would assist more people with disabilities being hired in competitive-integrated employment (CIE). ODP permitted providers to request funds for this initiative and staff training initiatives equaling up to 1% of ODP-eligible service revenue or \$100,000, whichever was greater. As ODP described it, an associate is an embedded staff person within a typical community business whose role is to assist with hiring practices and supporting people with disabilities in the workplace. The associate is typically an employment specialist on a provider agency’s payroll but works on-site at the business. The associate provides training and technical assistance to human resources (HR) and other employees at the business in which it is embedded on the following: hiring practices, including job specification/description/posting language, methods of recruitment, application and interviewing practices, and onboarding practices; supporting or arranging supports for people with disabilities in the workforce; providing disability awareness training to the company’s workforce; being an in-house expert/resource to the business on all publicly-available programs (e.g., vocational rehabilitation), funding streams, and tax and other incentives for hiring and supporting people with disabilities; and workplace accommodations. The expected outcome for the business associate is an increase in the number of individuals with disabilities hired and retained in competitive-integrated jobs by the business, as well as permanent changes in the business’s HR policies and practices that reduce barriers for future applicants with disabilities to secure employment with the company. ODP is only providing one year of funding for the initiative, causing concern that few if any providers will apply for the funds since there are costs in the out years. Nevertheless, ODP is to be commended for directing some of its ARPA funds toward a new idea that can help to create permanent, positive change within the private sector when it comes to assisting qualified talent with disabilities get and keep CIE jobs. During the coming year, the Commission hopes to learn of any positive results from the initiative and if ODP will be able to direct funds to the initiative annually in hopes of increasing interest among employment service providers.

2. Integrated Vocational Engagement & Support Team (InVEST)

The Office of Vocational Rehabilitation (OVR), in close collaboration with the Office of Developmental Programs (ODP), applied for and was recently awarded a 5-year \$13.9 million grant through the federal Rehabilitation Services Administration’s Disability Innovation Fund – *Subminimum Wage to Competitive Integrated Employment Innovative Model Demonstration Project*. The application proposed a three-component model for assisting individuals moving from subminimum wage (SMW) to competitive, integrated employment (CIE) or encouraging those considering SMW employment toward CIE:

- i. CIE Engagement, including education, strategies, and supports to alleviate concerns around loss of benefits, safety, and logistics outside of a sheltered environment;
- ii. CIE Supports for both the participants pursuing CIE and the employer, including an embedded employer liaison; and
- iii. CIE Service/Resource Coordination, for the participant who achieves CIE this involves a resource team to identify and respond to employment-related needs.

The commission commends OVR for pursuing this federal innovation grant and looks forward to learning more about this recently unveiled initiative and hear about the progress made during the upcoming year.

3. Employment as a Social Determinant of Health

Through the utilization of American Rescue Plan Act (ARPA) funding, the Office of Long-Term Living (OLTL) allocated \$40 million dollars for home and community-based services (HCBS) providers to apply for funding of up to \$40,000 to enhance, expand, or strengthen their HCBS initiatives. The funding opportunity is focused on supplementing activities in a manner that improves and strengthens the quality of HCBS. Eligible providers, which includes employment and employment-related service providers, must utilize the funds to enhance the quality of services they deliver by addressing social determinants of health (e.g., employment), development or enhancement of trainings, purchase of remote technology, or purchase and implementation of new software or technology.

E. State Collaboration

1. Acknowledgement of Administration Staff who Provide Support to the Commission

The Commission would like to acknowledge and thank the staff in the Governor’s Policy Office who have supported the work of the Commission over the past year by providing assistance with Commission data requests, coordinating Commission meeting attendance from the state agencies involved in disability employment. They have also supported: printing and distributing this report, and scheduling Commission meetings (and all that goes along with it, which includes arranging CART [real time captioning] service, meeting venues, publishing meeting notices as required by law, etc. The Commission would like to thank Tara Williams and Mary Dougherty in the Governor’s Office; and, while too numerous to mention, thanks and appreciation go to everyone in the several state agencies who have been involved with the Commission and supported its work and purpose.

2. State Agencies Feedback on EFOC Goals/Objectives/Recommendations

The Commission initiated discussions with the Governor’s Office to request that the administration share its views and positions on the Commission’s several goals, objectives and recommendations as published in its annual report. During late spring, a series of calls and video meetings were held between a committee of the Commission and representatives of the administration. The feedback was helpful, and it was considered during the development of this October 2022 report.

3. Act 36 of 2018 Applicability to All State Agencies

A plain reading of the Act indicates that policy established via the Act is applicable to all state agencies. Section 4.a of the Act reads as follows: *“Employment First. Policy. --It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry. Employment services and opportunities must be offered to all*

individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.” Close involvement of several of the state agencies that have a direct programmatic role in disability employment (e.g., OVR, ODP, OLTL, OMHSAS, BSE, and OA) has occurred during the first four years of the Commission and is appreciated, and several additional agencies have been noted to participate in the quarterly meetings of the Governor’s Cabinet for People with Disabilities. Yet, the Commission understands Act 36 not to be limited to just those agencies. Rather, the Act is applicable to all state agencies as it establishes policy for all individuals with a disability eligible to work under state and federal law. Despite this belief, the Commission has not yet figured out how to get all state agencies to pay attention to Act 36 of 2018, including state agencies not under the Governor’s jurisdiction. It is the Commission’s understanding that some agencies other than those mentioned have participated in the quarterly meetings of the Governor’s Cabinet for People with Disabilities, but it is unclear to the Commission at this point what actions are being taken by those agencies around employment first. Additional time and effort will need to be put into this issue so that the intent and promise of Act 36 can be fully realized.

4. State Agencies’ Assessment of Act 36 of 2018 Compliance

The Commission requested from the Governor’s Office that it coordinate with the several state agencies to complete an assessment of each of the requirements in Act 36 to indicate whether and how each requirement is being implemented. That was completed and provided to the Commission in May 2022 (see Appendix). The EFOC will review this document in the fall of 2022 and work with the administration to ensure compliance.

F. Governor’s Office Report

In Section Four (specifically subsections f, g, i & j) of the Act, the Office of the Governor is required to develop an initial three-year plan to implement Employment First and submit it to the General Assembly. The plan is to identify specific policies and implementation dates for State agency compliance with the Act. This section of the Act also requires the Office of the Governor to submit an annual report to the General Assembly, and it should include:

- Clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment developed by State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability
- An assessment of progress toward meeting these goals annually, and
- Documentation of continued and improved State agency compliance with the Act.

During the past year, the Governor’s Office issued their annual report in January 2022. That report is included as an appendix.

III. Measurable Goals & Objectives

A. Employment Goals and Employment Services Authorized

1. By 2022, 30% of working age individuals (ages 18-64) who are on an Intellectual Disability/Autism waiver (enrolled with ODP) will have Competitive Integrated Employment.

This goal has existed for the four years of the Commission. Unfortunately, the goal of reaching 30% by 2022 was not met. The results of government actions to combat the COVID-19 pandemic, as well as health and safety concerns of individuals with disabilities during the pandemic, likely contributed to a lowering of the percentage during the ‘20 and ‘21 time period. With the efficacy of the vaccines and

rescission of government restrictions, economic activity and employment numbers have returned to the pre-COVID era. The Commission believes that the Office of Developmental Programs has made positive strides on many of its policies to promote employment as the first consideration and preferred outcome of its services. Yet, no one should be satisfied with the current level of competitive-integrated employment outcomes. In its next report, the Commission will update this measurable goal, most likely to an annual percentage increase (e.g., a target annual increase of 3% for the next five years). Table 1 below shows the number and percent of individuals enrolled with ODP who have competitive-integrated employment, from 2017 to 2021.

Table 1. Number and Percent of Individuals Enrolled with ODP Who Have Competitive-Integrated Employment

	Number and Percent of Working Age (18-64) Individuals Enrolled in an ODP Waiver (Consolidated, Community Living, P/FDS, or Adult Autism) that have Competitive Integrated Employment	Number and Percent of Working Age (18-64) Enrolled in Base-funded or SC services only that have Competitive Integrated Employment	Number and Percent of Working Age (18-64) Individuals Enrolled with ODP that have Competitive Integrated Employment³
As of December 31, 2017	3,614 13%	2,083 16%	5,671 14%
As of December 31, 2018	4,159 14%	2,338 19%	6,470 15%
As of December 31, 2019	4,762 15%	2,424 19%	7,136 17%
As of December 31, 2020	4,098 13%	2,190 18%	6,261 14%
As of December 31, 2021	4,890 15%	2,421 20%	7,279 17%

Data source: HCSIS & Individual Monitoring Employment Question #1 – “Is the individual working in a competitive-integrated job?”

³ The number of individuals enrolled in a Waiver and the number of individuals enrolled in base-funded or SC only services may not be equal to the total number of individuals enrolled with ODP since individuals can be enrolled in a Waiver and also receive base-funded services.

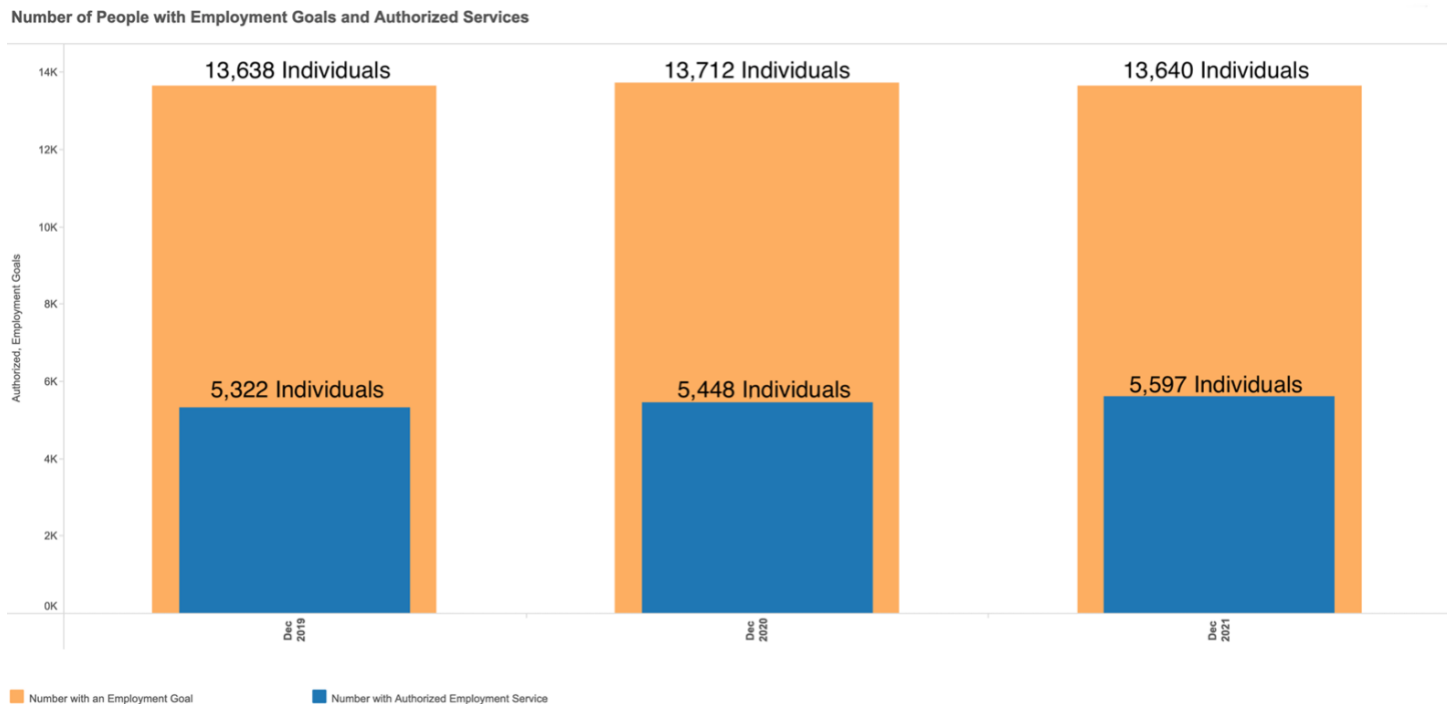
Number of individuals enrolled with ODP, served in the community, ages 18-64 as of December 31, 2021 = 43,609

Total includes individuals served in the Consolidated, Community Living, Person/Family Directed Support (P/FDS), and Adult Autism Waivers as well as those receiving base funding and Supports Coordination-only services

2. By 2022, 3000 more individuals (ID/Autism) who have an employment goal in their ODP Individual Support Plan (ISP) will be receiving employment services.

It is positive that the number of employment services authorized in ISPs for people receiving services through ODP increased. Yet, the Commission raises two concerns. First, the delta is significant between those with an employment goal and those who have employment services authorized. Second, the number of people who are actually receiving employment services is also needed to properly analyze the situation (i.e., services delivered, not just authorized). The Commission had said in its last report it needed such data but neglected to request it specifically. Next year, the Commission needs to better understand and share how the employment as a goal translates to services in the ISP, whether the participant has employment services authorized in their plan, and whether the participant has actually received employment services. Finally, to better evaluate whether a participant’s employment goal is being acted upon, employment service authorized and provided is not enough. Data on whether the participant has been referred to the Office of Vocational Rehabilitation or to a Work Incentives Planning & Assistance program should also be known. Figure 1 below shows the number of ODP working-age individuals with an employment goal in their ISP and number of working-age individuals with authorized employment services.

Figure 1. Number of ODP Working-Age Individuals with an Employment Goal in their ISP and Number of Working-Age Individuals with Authorized Employment Services



- Includes individuals ages 18-64 served in the Consolidated, Community Living, Person/Family Directed Support (P/FDS), and Adult Autism Waivers as well as those receiving base funding and SC only services.
- “Authorized Services” includes Advanced Supported Employment, Supported Employment, Career Planning (AAW only), and Small Group Employment
- Some ODP services, such as Small Group Employment and Community Participation Support prevocational services, require the individual to have an employment outcome in their ISP in order to receive the service.
- Data source: HCSIS. Supports Coordinators have been instructed to use the following guidance: “Does this consumer have employment goals? Y or N (Goals could be whether the individual would like to: explore competitive integrated employment, increase or decrease hours of current employment, change jobs, career advancement, etc.)

3. (Changed language from last year). Within one year, 100% of all referrals to the Office of Vocational Rehabilitation (OVR) through Pennsylvania’s 511 efforts⁴ (persons requesting to leave sheltered workshops) will either achieve Competitive Integrated Employment (CIE), have an OVR Individualized Plan for Employment (IPE) in place with employment services authorized and being delivered, have an Individualized Support Plan through the Office of Developmental Programs (ODP) or Community HealthChoices with employment as a goal and employment services authorized and being delivered, or have been referred to a Work Incentives Planning and Assistance (WIPA) for benefits counseling.

This goal in the previous three years’ reports was for 100% of 511 referrals to achieve CIE within one year. After discussions with the administration, the Commission believes 100% is unrealistic due to several factors. Instead, the Commission believes that CIE is one outcome that can be achieved during a year but other actions within a year could also show acceptable progress.

Based on the aggregate data provided, the number of people who expressed interest in CIE via the 511 program went up from 135 to 314. This could be a result of sheltered workshops returning to full or partial capacity following the government restrictions due to the COVID-19 pandemic. While the increased number requesting more information about CIE is very positive, the outcomes data of those expressing interest necessitates further discussion.

Specifically, nearly two-thirds (197 out of 314) had their case closed due to “closed, ineligible”, “pre-application closure”, or “closed unsuccessfully before services.” This means that 63% of the time, someone in a sheltered workshop who expressed to OVR that they were interested in CIE had their cases closed before receiving any help from OVR or (likely) any system for that matter. The Commission believes more explanation is needed from OVR to help explain why so many individuals fell into these categories. Some immediate questions are the following:

- Who makes a pre-application closure determination?
- Regarding referrals, to whom are the persons being referred?
- Why are so many people being determined ineligible? What are the reasons?
- Were any of the “referrals” or “closures” referred to other systems, like ODP or Community HealthChoices where they can receive a full array of employment services paid via Medicaid waivers?

⁴ Section 511 of the Workforce Innovation and Opportunity Act Requires state Vocational Rehabilitation Offices to visit sheltered workshops and provide information to participants about competitive-integrated employment services and opportunities. <https://www2.ed.gov/about/offices/list/osers/rsa/publications/csavr-2016-section-511-subminimum-wage.pdf>

Finally, during 2022, the Commission requested that the 511 data be broken down and shown in Table 2 below by:

- County and by OVR district office. This was not provided - all that was provided was a list of counties that had a 511 referral. Rather, the Commission wants to see what is happening to 511 referrals and if there are disparities that can be determined based on their county services and/or by the OVR district office they are in.
- Race/ethnicity, gender, gender identity, and English as second language to determine if there are any disparities in how people are being served. OVR provided aggregate customer data by race/ethnicity and gender (see Section 511 Demographic Data, below) but was not able to provide additional breakdowns as requested. This information would be helpful for additional insight into equitable use of services.
- Outcomes and statuses; e.g., include those with an OVR Individualized Plan for Employment with active services or an ODP or CHC ISP with employment as a goal and employment services authorized. And, for each of these statuses/outcomes, the Commission requested that they be broken down by living situation of the person (e.g., living in a licensed community home, their own home, or with their family); i.e., show the living situation for each in CIE, IPE, ODP ISP or CHC ISP. Unfortunately, these data were not provided to the Commission.

Table 2. Number of 511 Cases Referred, 2018-2021

511 Case Referral Outcomes					
Most Recent SFY 2020 Status	Status Definition	Number of Cases SFY2018	Number of Cases SFY2019	Number of Cases SFY2020	Number of Cases SFY2021
-2	Pre-Application Closure	14	7	18	78
-1	Pre-Application	0	0	16	5
00	Referral	0	0	34	27
02	Applicant	0	0	4	12
06	Trial Work Experience	3	3	1	17
08	Closed, Ineligible	252	155	57	119
10	Acceptance	0	0	0	10

11	Waiting for Services	0	0	2	0
14	Counseling & Guidance	7	4	2	11
16	Physical & Mental Restoration	0	0	0	1
17	Training - High School	0	0	0	0
18	Training	23	22	0	24
20	Ready for Employment	1	1	0	0
22	In Employment	0	0	0	1
26	Closed, Rehabilitated	37	40	0	1
28	Closed Unsuccessfully After Services	91	132	0	6
30	Closed Unsuccessfully Before Services	18	17	1	1
32	Post-Employment Services	0	0	0	0
34	Post-Employment Closure	2	0	0	0
39	Training - College Bachelor's Degree	1	0	0	0
BBVS - S	Closed Successfully	3	2	0	1
BBVS - U	Closed Unsuccessfully	3	1	0	0
TOTAL		455	384	135	314

B. OVR Case Status Definitions

-01 Pre-application. An incomplete application for VR services that can be completed by OVR staff users or citizen users through PA CareerLink. Captures initial customer information in the following areas: personal, education, disability, employment, household, medical and other agency involvement. The form also contains a voter registration option.

-02 Pre-application Closed. A pre-application form that is manually closed by OVR staff in CWDS if the participant no longer applies for VR services. Pre-applications are also closed from status -01 if they are inactive after a period of 90 days.

00 Referral. Assigning a Primary Case Manager to a participant with an incomplete or complete pre-application moves the case into Referral status in CWDS.

02 Applicant. As soon as an individual signs the OVR-11, Rights & Responsibilities form requesting VR services, he or she is placed into status 02 and is designated as an applicant. While in 02, sufficient information is developed to make a determination of eligibility (status 10) or ineligibility for VR services (08), or a decision is made to place the individual into a Trial Work Experience (06) prior to making this determination.

06 Trial Work Experience. The VRC has certified how a customer's disabilities result in a substantial impediment to employment, and there is a need to provide services to help determine if the individual can benefit from VR services in terms of an employment outcome. Applicants leaving this status will be moved to status 10 (eligible) or closed from 08 (ineligible) within the 18-month period allowed to complete the eligibility determination.

07 Pending Eligibility Review. A Certificate of Eligibility and Order of Selection Form that has been completed by a VRC Trainee will advance to status 07 pending review and signature from their VR Supervisor.

08 Closed, Ineligible. This status is used to identify persons determined ineligible or who are otherwise not accepted for VR services, whether closed from referral status (00), applicant status (02), or extended evaluation (06).

10 Acceptance. The VRC has certified how the disabilities result in a substantial impediment to employment, and that the individual can benefit from VR services in terms of an employment outcome. The IPE has not been completed. While in this status, an assessment of the rehabilitation needs of the individual is completed to provide a basis for the formulation of the IPE. The individual remains in this status until the IPE is written and approved.

11 Waiting for Services. Participants are placed into status 11 when they have been determined to meet an impediment level that is currently not being served on the Order of Selection. Impediment levels include Most Significant Disability, Significant Disability and Non-Significant Disability.

12 Individual Plan for Employment (IPE) Completed. An IPE is complete, having been jointly developed by the VRC and customer to address those vocational issues identified as substantial impediments to employment, but services have not yet been initiated.

14 Counseling & Guidance. The IPE has started, and the only major service required to prepare the customer for employment is counseling and guidance.

16 Physical & Mental Restoration. The IPE has started, and the primary service is physical or mental restoration. Customers receiving any type of physical or mental restoration service(s) (e.g., surgery, psychiatric

treatment, being fitted with an artificial appliance, etc.) are placed into this status until services are completed or terminated.

17 *Training - High School. The IPE has started, and the primary service is secondary (high school) training.*

18 *Training. The IPE has started, and the primary service is job coaching.*

19 *Training – College Certificate. The IPE has started, and the primary service is post-secondary training leading to a certificate.*

20 *Ready for Employment. A case is placed into this status when the customer has completed preparation for employment and is ready to accept a job, or has been placed into, but has not yet begun, employment.*

22 *In Employment. The individual's employment has started. The customer must be observed in this status for a minimum of 90 days before the case can be closed rehabilitated (status 26).*

24 *Services Interrupted. A VR case may be placed in this status when rehabilitation action is suspended temporarily but is expected to resume within six months or less. Cases may move into this status from statuses 14-22.*

26 *Closed, Rehabilitated. Successful case closure. A case is closed as a successful rehabilitation when substantial services have been provided and the customer has returned to work without interruption for 90 days or more. Cases closed as rehabilitated must, as a minimum, (1) have been declared eligible for services, (2) have received appropriate diagnostic and related services, (3) have had a program for VR services formulated, (4) have completed the program, (5) have been provided counseling and guidance, and (6) have been determined to be suitably employed in competitive, integrated employment for a minimum of 90 days.*

28 *Unsuccessful After IPE. Closed as not rehabilitated after the IPE has started (at least one IPE service was provided). Cases closed into this category from statuses 14 through 24 must have met criteria (1), (2) and (3) above, and at least one of the services provided for by the IPE must have initiated, but, for some reason, one or more of criteria (4), (5) and (6) above were not met.*

29 *Training – Associate Degree. The IPE has started, and the primary service is post-secondary training leading to an associate degree.*

30 *Unsuccessful Before IPE. Cases placed into status 30 are those which, although accepted for VR services, did not progress to the point that rehabilitation services were actually initiated under an IPE (closures from statuses 10, 11 and 12).*

32 *Post-Employment Services. A post-employment IPE is developed to maintain or regain employment after a rehabilitated closure (26).*

34 *Post-Employment Closure. Closure code used when a customer exits the program from post-employment services.*

39 *Training – College Bachelor's Degree. The IPE has started, and the primary service is post-secondary training leading to a bachelor's degree or higher.*

Table 3 below shows the percentages of people in workshops seeking OVR assistance for the state fiscal year 2021.

Table 3. Section 511 Demographic Data (People in Workshops Seeking OVR Assistance in PA FY-2021)

Race	
Asian	0.3%
Black	10.9%
Multiracial	0.9%
Not Reported	18.5%
White	69.4%
Native American	0.0%
Native Hawaiian or Pacific Islander	0.0%
Total	100.0%
Ethnicity	
Non-Hispanic/Latino	75.2%
Do not wish to disclose	20.9%
Hispanic/Latino	3.9%
Total	100.0%
Gender	
Female	43.9%
Male	55.5%
Non-binary	0.3%
Not Reported	0.3%

Total	100.0%
English Language Learners - No English Language Learners were reported	

4. Annually decrease segregated employment by a minimum of 10%. Map by county, the total number of individuals served by state and local dollars in competitive-integrated employment services versus number of individuals receiving services in a facility with a 14c certificate funded by state and local dollars.

In the last few years, the Commission realized that the data it requested did not accurately count the number of people who are in segregated sheltered workshops receiving subminimum wages and therefore failed to successfully measure this goal. Simply having the number of licensed vocational facilities that may pay subminimum wages (2390s), and the number and percent of ODP waiver participants receiving prevocational services does not tell the full story. For example, in “Erie County”, the data shows zero 2390s in Erie County and zero people receiving prevocational services. At the same time, the Commission knows there are 14c certificate holders in Erie County and there are people in Erie County being paid subminimum wage in a licensed facility supported with ODP waiver or county base funding. The Commission requested that in 2022 the data would need to be expanded to include licensed 2380 Adult Training Facilities and include any ODP-funded service in either a 2380 or 2390 that supports a person in an activity that pays subminimum wage. The Commission was given the following explanation regarding data collection on this item:

“ODP does not collect wage data, including information on who is receiving subminimum wage. This is a casualty of the deficiencies that were identified in the DHS data sharing agreement with OVR, as mentioned at the last meeting. DHS believes the underlying issue is resolved and has updated the agreement, but making this process work in order to identify sub-minimum wage workers in 2380s will take some time and will not be available for the EFOC report deadline.”

C. 2380 and 2390 Definitions

Adult training facility or facility (2380)—A building or portion of a building in which services are provided to four or more individuals, who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis, for part of a 24-hour day, excluding care provided by relatives. Services include the provision of functional activities, assistance in meeting personal needs and assistance in performing basic daily activities.⁵

Vocational facility (2390)—A premise in which rehabilitative, habilitative or handicapped employment or employment training is provided to one or more disabled clients for part of a 24-hour day.⁶

The Commission believes that ODP should know how many people are getting ODP-funded services that support a person in a subminimum wage activity, and that ODP should have this information by location (e.g., licensed 2380 facilities, licensed 2390 facilities, or any other location). There are 147 license holders for 2390 Vocational Facilities and there are 457 license holders for 2380 Adult Training Facilities in Pennsylvania.⁷ The Commission requests that this data be collected and provided to the Commission next year because the potential is so large for people to be receiving subminimum wage compensation in a 2380 given the large number of them in Pennsylvania.

⁵ <https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/055/chapter2380/s2380.3.html&d=>

⁶ <https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/055/chapter2390/s2390.5.html&d=>

⁷ [https://www.dhs.pa.gov/coronavirus/Documents/Licensed%20Chapter%202380%20Programs%20_March17%20\(1\).pdf](https://www.dhs.pa.gov/coronavirus/Documents/Licensed%20Chapter%202380%20Programs%20_March17%20(1).pdf)

In addition, starting in 2023, the Commission will likely change this measurable goal to show the data not just by county but also by the Supports Coordination Organization (SCO) authorizing the service and by OVR District Office in which the person lives. Having this information is vitally important so that outcomes can be seen and further analyzed to determine if disparities can be identified simply by which SCO is handling a person’s ISP and/or by which OVR District Office a person is required to work with before getting ODP-funded employment services.

The Commission also believes that data showing people being paid subminimum wage should be shown by the person’s living arrangement (e.g., licensed community “group” home, their own home, or living with a family member, etc.). The Commission is interested in seeing if there are disparities in subminimum wage activities versus CIE based on a person’s living arrangement so it can make policy recommendations accordingly.

In Table 4 below, the Commission shows the data that were provided, but additional data is required for a more complete understanding.

Table 4. Four Tables of Service Locations Licensed Under 55 Pa. Code Chapter 2390 (licensed Vocational Facilities)

<u>Central Region</u>		<u>Northeast Region</u>		<u>Southeast Region</u>		<u>Western Region</u>	
<u>Adams</u>	<u>1</u>	<u>Berks</u>	<u>2</u>	<u>Bucks</u>	<u>8</u>	<u>Allegheny</u>	<u>10</u>
<u>Blair</u>	<u>1</u>	<u>Lackawanna</u>	<u>1</u>	<u>Chester</u>	<u>13</u>	<u>Armstrong</u>	<u>1</u>
<u>Cambria</u>	<u>4</u>	<u>Lehigh</u>	<u>3</u>	<u>Delaware</u>	<u>6</u>	<u>Beaver</u>	<u>1</u>
<u>Centre</u>	<u>1</u>	<u>Luzerne</u>	<u>5</u>	<u>Montgomery</u>	<u>14</u>	<u>Butler</u>	<u>1</u>
<u>Columbia</u>	<u>1</u>	<u>Monroe</u>	<u>1</u>	<u>Philadelphia</u>	<u>12</u>	<u>Clearfield</u>	<u>1</u>
<u>Cumberland</u>	<u>2</u>	<u>Northampton</u>	<u>2</u>	<u>Total</u>	<u>53</u>	<u>Crawford</u>	<u>1</u>
<u>Dauphin</u>	<u>2</u>	<u>Pike</u>	<u>1</u>			<u>Elk</u>	<u>2</u>
<u>Franklin</u>	<u>2</u>	<u>Schuylkill</u>	<u>6</u>			<u>Greene</u>	<u>2</u>
<u>Huntingdon</u>	<u>1</u>	<u>Tioga</u>	<u>3</u>			<u>Indiana</u>	<u>1</u>
<u>Juniata</u>	<u>1</u>	<u>Wayne</u>	<u>1</u>			<u>Jefferson</u>	<u>1</u>
<u>Lancaster</u>	<u>7</u>	<u>Wyoming</u>	<u>1</u>			<u>Lawrence</u>	<u>3</u>

<u>Lebanon</u>	<u>1</u>
<u>Mifflin</u>	<u>2</u>
<u>Northumberland</u>	<u>1</u>
<u>York</u>	<u>2</u>
<u>Total</u>	<u>29</u>

<u>Total</u>	<u>26</u>
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<u>McKean</u>	<u>1</u>
<u>Mercer</u>	<u>2</u>
<u>Venango</u>	<u>1</u>
<u>Warren</u>	<u>0</u>
<u>Westmoreland</u>	<u>9</u>
<u>Total</u>	<u>37</u>

Statewide = 145 (an increase of 3 from 2020)

Data Source: ODP Data Compiled for EFOC July 2022 (These facilities in use as of July 2022)

Table 5 below describes the number and percent of working-age individuals with competitive-integrated employment and number and percentages of working-age individuals receiving services in settings licensed under 55 PA. Code chapter 2390, by county.

Table 5. Number and Percent of Working-age Individuals with Competitive-Integrated Employment and Number and Percent of Working-age Individuals Receiving Services in Settings Licensed under 55 Pa. Code Chapter 2390 - by County

County/ Joinder	Number of Individuals Enrolled with ODP December 31, 2020	Number of Individuals Enrolled with ODP December 31, 2021	Number of Individuals that received CPS prevoc services 2020	Percent age of Individuals that received CPS prevoc services 2020	Number of Individuals that received CPS prevoc services 2021	Percent age of Individuals that received CPS prevoc services 2021	Number of Individuals with Competitive Integrated Employment December 31, 2020	Percent age of Individuals with Competitive Integrated Employment December 31, 2020	Number of Individuals with Competitive Integrated Employment December 31, 2021	Percent age of Individuals with Competitive Integrated Employment December 31, 2021
Allegheny	4,731	4,803	275	5.8%	281	5.9%	726	15.3%	874	18.2%

Armstrong/ Indiana	561	560	85	15.2%	75	13.4%	41	7.3%	52	9.3%
Beaver	595	608	80	13.4%	74	12.2%	89	15.0%	95	15.6 %
Bedford/ Somerset	482	486	13	2.7%	16	3.3%	49	10.2%	63	13.0 %
Berks	1,386	1,395	16	1.2%	19	1.4%	187	13.5%	233	16.7 %
Blair	556	561	42	7.6%	43	7.7%	71	12.8%	85	15.2 %
Bradford/ Sullivan	340	335	0	0.0%	0	0.0%	39	11.5%	40	11.9 %
Bucks	1,719	1,755	172	10.0%	261	14.9%	315	18.3%	353	20.1 %
Butler	586	590	43	7.3%	56	9.5%	100	17.1%	108	18.3 %
Cambria	472	463	88	18.6%	98	21.2%	33	7.0%	47	10.2 %
Cameron/Elk	115	114	19	16.5%	18	15.8%	20	17.4%	18	15.8 %
Carbon/ Monroe /Pike	919	915	31	3.4%	41	4.5%	100	10.9%	102	11.1 %
Centre	367	353	31	8.4%	30	8.5%	78	21.3%	95	26.9 %
Chester	1,413	1,472	106	7.5%	176	12.0%	263	18.6%	347	23.6 %
Clarion	183	180	**	**	0	0.0%	**	**	23	12.8 %
Clearfield/ Jefferson	397	394	27	6.8%	27	6.9%	58	14.6%	58	14.7 %
Columbia/ Montour/ Snyder/Union	564	568	18	3.2%	21	3.7%	96	17.0%	114	20.1 %
Crawford	374	381	71	19.0%	71	18.6%	45	12.0%	55	14.4 %

Cumberland/ Perry	798	816	78	9.8%	85	10.4%	173	21.7%	170	20.8 %
Dauphin	1,001	998	37	3.7%	38	3.8%	205	20.5%	242	24.2 %
Delaware	1,755	1,747	45	2.6%	47	2.7%	285	16.2%	355	20.3 %
Erie	1,917	1,956	0	0.0%	0	0.0%	283	14.8%	329	16.8 %
Fayette	453	444	**	**	**	**	48	10.6%	54	12.2 %
Forest/ Warren	155	157	**	**	**	**	13	8.4%	12	7.6%
Franklin/ Fulton	494	485	68	13.8%	84	17.3%	47	9.5%	54	11.1 %
Greene	93	97	**	**	19	19.6%	**	**	**	**
Huntingdon/ Mifflin/ Juniata	443	455	54	12.2%	51	11.2%	54	12.2%	66	14.5 %
Lackawanna/ Susquehanna	886	909	64	7.2%	78	8.6%	90	10.2%	97	10.7 %
Lancaster	1,419	1,443	118	8.3%	32	2.2%	244	17.2%	282	19.5 %
Lawrence	369	363	83	22.5%	84	23.1%	53	14.4%	64	17.6 %
Lebanon	409	425	26	6.4%	**	**	115	28.1%	121	28.5 %
Lehigh	1,145	1,169	101	8.8%	109	9.3%	153	13.4%	199	17.0 %
Luzerne/ Wyoming	1,296	1,288	93	7.2%	63	4.9%	147	11.3%	165	12.8 %
Lycoming/Cli nton	531	526	0	0.0%	0	0.0%	72	13.6%	71	13.5 %
McKean	219	217	**	**	0	0.0%	11	5.0%	16	7.4%
Mercer	466	466	78	16.7%	92	19.7%	59	12.7%	65	13.9 %

Montgomery	2,510	2,600	219	8.7%	281	10.8%	412	16.4%	494	19.0%
Northampton	800	825	71	8.9%	69	8.4%	111	13.9%	130	15.8%
Northumberland	402	388	31	7.7%	29	7.5%	68	16.9%	77	19.8%
Philadelphia	5,827	5,781	152	2.6%	310	5.4%	693	11.9%	761	13.2%
Potter	43	43	0	0.0%	0	0.0%	**	**	12	27.9%
Schuylkill	497	496	38	7.6%	62	12.5%	46	9.3%	60	12.1%
Tioga	159	163	47	29.6%	45	27.6%	21	13.2%	27	16.6%
Venango	220	222	28	12.7%	**	**	27	12.3%	26	11.7%
Washington	493	507	18	3.7%	21	4.1%	75	15.2%	70	13.8%
Wayne	188	188	0	0.0%	**	**	33	17.6%	40	21.3%
Westmoreland	1,107	1,132	215	19.4%	181	16.0%	166	15.0%	203	17.9%
York/Adams	1,418	1,408	46	3.2%	82	5.8%	234	16.5%	248	17.6%
Statewide	43,273	43,647⁸	2,844	6.6%	3,184	7.3%	6,269	14.5%	7,279	16.7%

**Numbers less than 11 have been suppressed to protect the confidentiality of the individuals served.

- Data above includes working age (18-64) individuals in the Consolidated, Community Living, P/FDS, and Autism Waivers as well as those receiving base funding and SC only services
- By county with which they are registered⁹
- Data source for competitive integrated employment: HCSIS; Individual Monitoring Employment Question #1 – “Is the individual working in a competitive-integrated job?” (Point in time as of December 31)

⁸ The number of unique individuals ages 18-64 as of December 31, 2021, was 43,609. Some individuals enrolled in the Adult Autism Waiver may also be registered with the County ID Program for Intellectual Disability/Autism services and therefore would be counted twice in this total.

⁹ Participants in the Adult Autism Waiver are included by residential county since they did not register with a county MH/ID office in order to receive AAW services.

- Data source for CPS prevocational services: PROMISE; at least one paid claim in a CPS setting licensed under 55 Pa. Code Chapter 2390 (relating to Vocational Facilities) between October 1 and December 31

The Number of individuals (all ages) that received CPS prevocational services in a setting licensed under 55 Pa. Code Chapter 2390 at least once between October 1, 2021, and December 31, 2021, is: 3,471 Individuals

Even though additional data is needed to ascertain all publicly-funded services supporting subminimum wage compensation in licensed 2380s and 2390s, the Commission did find data at the federal level that shows how many organizations in Pennsylvania hold 14c certificates and how many people are being paid subminimum wage (below). Next year it will be helpful to know not only which organizations hold 14c certificates and how many people are being paid subminimum wage, but also to what extent ODP's base and waiver dollars are being used to support the people earning subminimum wage (this should include by location, including both 2380s and 2390s and any other setting the Commission is not aware of).

The data in Table 6 below from US DOL shows the Number of People Paid Subminimum Wage by PA Organizations, as of April 1, 2022, by organization and county.

Table 6. PA Organizations with 14c Certificates (or Applications) Under the Fair Labor Standards Act; and Number of People Paid Subminimum Wage

Organization & County	Status	14c Certificate Starting Date	14c Certificate Ending Date	Number of People Paid Subminimum Wages
Occupational Development Center, Lancaster	Issued	10/1/2020	9/30/2022	61
Vision Resource Center of Berks County, Berks	Issued	3/1/2022	2/29/2024	8
Access Services, Inc., Montgomery	Issued	1/1/2021	12/31/2022	38
Allied Services-Scranton Vocational Rehab Center, Lackawanna	Issued	11/1/2020	10/31/2022	100
Associated Production Services, Bucks	Issued	9/1/2020	8/31/2022	501
Barber National Institute, Erie	Issued	1/1/2021	12/31/2022	279
Beaver County Rehabilitation Center, Inc., Beaver	Issued	9/1/2020	8/31/2022	98
Burnley Workshop of the Poconos, Monroe	Issued	10/1/2020	9/30/2022	56
Cambria County Association for the Blind and Handicapped, Cambria	Issued	9/1/2020	8/31/2022	14
Citizen Care, Inc., Allegheny	Issued	11/1/2020	10/31/2022	98
CTC Manufacturing, Inc., Bradford	Issued	8/1/2020	7/31/2022	13
Devereux Foundation, Montgomery	Issued	11/1/2020	10/31/2022	101

Dickinson Center Inc., Elk	Issued	2/1/2022	1/31/2024	9
Dr. Warren E. Smith Health Centers, Inc., Philadelphia	Issued	7/1/2020	6/30/2022	48
Elcam, Inc. Elk	Issued	8/1/2020	7/31/2022	12
Elwyn of Pennsylvania and Delaware, Delaware	Issued	12/1/2020	11/30/2022	328
Ephrata Area Rehab Services, Lancaster	Issued	11/1/2020	10/31/2022	78
Futures Rehabilitation Center, Inc., Bradford	Issued	6/1/2020	5/31/2022	131
Habilitation, Inc., Schuylkill	Issued	8/1/2020	7/31/2022	127
Hanover Adams Rehabilitation & Training Center, Adams	Issued	6/1/2020	5/31/2022	129
Helping Hands, Inc., Berks	Issued	9/1/2020	8/31/2022	17
Human Resources Center, Inc., Wayne	Issued	7/1/2020	6/30/2022	50
ICW Vocational Services, Inc., Indiana	Issued	5/1/2020	4/30/2022	65
Indiana Creek Industries, Montgomery	Issued	8/1/2020	7/31/2022	61
Keystone Community Resources, Inc. Lackawanna	Issued	10/1/2020	9/30/2022	305
Lark Enterprises, Inc., Lawrence	Issued	10/1/2020	9/30/2022	92
LifePath, Inc., Lehigh	Issued	1/1/2021	12/31/2022	24
Life's Work of Western Pennsylvania, Allegheny	Issued	2/1/2022	1/31/2024	84
Lighthouse, Vocational Services, Lancaster	Issued	2/10/2021	10/31/2022	0
Milestone Centers Inc., Allegheny	Issued	12/1/2020	11/30/2022	65
Novice Workshop, Clarks Summit State Hospital, Lackawanna	Issued	9/1/2020	8/31/2022	30
Occupational Services, Inc., Franklin	Issued	12/1/2020	11/30/2022	80
Partners In Progress, Inc., Tioga	Issued	11/1/2020	10/31/2022	42
Path, Inc., Philadelphia	Issued	8/1/2020	7/31/2022	72
Progressive Workshop of Armstrong Co, Inc., Armstrong	Issued	8/1/2020	7/31/2022	75
Prospectus Associates, Inc., Berks	Issued	9/1/2020	8/31/2022	99

Rehabilitation Center & Workshop, Inc., Westmoreland	Issued	2/1/2022	1/31/2024	35
S. Wilson Pollock Center for Industrial Training, Cumberland	Issued	8/1/2020	7/31/2022	76
Skills of Centralized PA, Center	Issued	7/1/2020	6/30/2022	216
South Mountain Workshop, Berks	Issued	8/1/2020	7/31/2022	34
SpArc Services, Philadelphia	Issued	2/1/2022	1/31/2024	67
SUNCOM Industries, Inc., Northumberland	Issued	7/1/2020	6/30/2022	160
The Arc of Butler County, Butler	Issued	9/1/2020	8/31/2022	78
The Arc of Northeastern Pennsylvania, Lackawanna	Issued	11/1/2020	10/31/2022	23
Clelian Center, Westmoreland	Issued	3/1/2022	2/29/2024	64
The Shadowfax Corporation, York	Issued	9/1/2020	8/31/2022	106
Threshold Rehabilitation Services, Inc., Berks	Issued	6/1/2020	5/31/2022	57
Vallonia Industries, Crawford	Issued	12/1/2020	11/30/2022	82
Venango Training & Developmental Center, Venango	Issued	2/1/2022	1/31/2024	34
Via of the Lehigh Valley, Inc., Lehigh	Issued	8/1/2020	7/31/2022	96
Wesley Family Services, Allegheny	Issued	1/1/2022	12/31/2023	64
Westmoreland County Blind Association, Westmoreland	Issued	3/1/2022	2/29/2024	76
Warren State Hospital, Warren	Issued	8/1/2020	7/31/2022	27
BARC Developmental Services, Bucks	Pending			
Developmental Enterprises Corporation, Montgomery	Pending			
Handi-Crafters.org, Chester	Pending			
ICW Vocational Services, Inc., Indiana	Pending			
Wood Services, Bucks	Pending			

TOTAL				4685 ¹⁰
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As of April 1, 2022, PA has 58 organizations that have issued or pending 14c certificates. Of these, 2 are business establishments, 2 are hospital/patient programs, and the remainder are Community Rehabilitation Programs. According to these data, at least 4,685 people in PA are being paid subminimum wage compensation.

The data in Table 7 below from US DOL shows the Number of People Paid Subminimum Wage by PA Organizations, as of April 1, 2022, by county.

Table 7. Number of People Paid Subminimum Wage

# By County	Bradford - 144	Cumberland - 76	Lackawanna 458	Northumberland- 160	Wayne - 50
Adams - 129	Bucks* - 501	Delaware - 328	Lancaster - 139	Philadelphia - 187	Westmoreland- 175
Allegheny - 311	Butler - 78	Elk - 21	Lawrence - 92	Schuylkill - 127	York - 106
Armstrong 75	Cambria - 14	Erie - 279	Lehigh - 120	Tioga - 42	* Counties with asterisk & Chester have people not counted due to pending status
Beaver - 98	Center - 216	Franklin - 80	Monroe - 56	Venango - 34	
Berks - 215	Crawford - 82	Indiana* - 65	Montgomery - 200	Warren - 27	

5. By 2022, no student who is being educated in an inclusive setting will transition to a more segregated setting (i.e., from pre-school to school age; school age to middle school; middle school to high school).

Current success in an inclusive setting should indicate opportunity for future success in the community, especially given the right educational program supports.

The Commission recognizes there is publicly available data, but it requires analysis and support from the Department to understand when these transitions to segregation are happening for students. Anecdotally, the Commissioners are aware that parents and/or school teams may push for more segregated settings due to any number of factors. For example, several parents have reported schools claiming they don't have the resources to support a student as they were previously supported and included; parent and school fears about 'safety' as children get older move to new environments with peers (middle/high school); not the right program (i.e., segregating students previously taught in typical peer classroom) moving to Life Skills with all students with disabilities for middle and/or high school. There are a lot of factors to evaluate.

The Commissioners still need clarification on the students that transfer to more segregated Approved Private Schools at these junctures. The Commission understands that families are part of the decision-making process, but it is important to know if adequate resources were used to ensure full participation.

¹⁰ USDOL 14C Certificate Data above do not include individuals in programs with a pending certificate

The Commission is making another request for a report from PDE/BSE for its January 2023 meeting and will make itself available to provide input on information needed. The report should include what the Department is doing to mitigate segregation at these junctures and their action plan for improvement.

- 6. **By 2022, 20% of all high school graduates (senior year up to age 21) receiving transition services from PDE, OVR and/or ODP will be competitively employed in an integrated setting within 3 months of graduation.**

OVR (in cooperation with PDE) reported in Figure 2 below that in the program year 2021, 1446 unique students entered competitive integrated employment within 3 months of graduation. The total number of students that received transition services from OVR that year was 6,151 (23%).

Figure 2. Numbers of unique students entered competitive integrated employment in 2021, within 3 months of graduation

High School Students with Disabilities Who Entered Competitive Integrated Employment within Three Months of their Graduation			
PY2018	PY2019	PY2020	PY2021
36	96	96	1,446

PDE also provided data and description (below) for the year that showed 13,814 students had employment ‘upon exiting high school’ but does not specify the number of 'total exiting students' to measure the percentage. The EFOC will likely need to increase its measurable goal to support continued growth for employment. Going forward, the EFOC will require the annual number of exiting students to make this deduction and will keep both results here as a benchmark in meeting the 20% outcome as reported by OVR and PDE.

PDE provided note and information: Earlier this year, PDE submitted 2019-20 data to OVR for inclusion to meet Act 26 reporting requirements. As such, PDE’s data is included in the OVR data submission to EFOC.

Table 8 below is that same data broken down by LEA type (school district, brick-and-mortar charter school, cyber charter school) as requested by the EFOC.

Table 8. Number of Students that had employment ‘upon exiting high school’ by type of school

	Students age 14+ that have a transition plan as part of their IEP (field 45)	Student (age 14+) participated in a competitive integrated paid work experience (field 73)	Student (age 14+) participated in individual job coaching services funded by the school in a paid work experience (field 74)	Student (age 14+) has an outcome goal of competitive integrated employment (field 75)	Upon exiting high school, the student (age 14+) was employed in a competitive integrated setting (field 76)
School District	100,741	8,541	8,036	67,059	13,292
Charter School	5,819	508	1,351	4,790	312
Cyber School	7,823	338	423	6,825	210
Total	114,383	9,387	9,810	78,674	13,814

PDE is collecting 2021-22 data now and will provide that final data to OVR when the collection is complete. Act 26 does not require OVR to display the PDE data as shown above. PDE will provide the EFOC with a similar table for 2021-22 in a few months that they can use to inform their 2023 Annual Report.

- Each year, the Commonwealth will steadily increase access to competitive-integrated public and private employment for high school students with disabilities with funding and/or support from either OVR or PDE. This can be in the form of a Work-Based Learning Experience or a job with job coaching and/or other supports. First year goal 2000 students; Second year goal 2500 students; 3rd year goal 3000 students.**

This year, OVR and Pre-ETS data for Act 26 includes the total of “unique” student participants served for this measure, which will be the baseline going forward. At last year’s report OVR served 1141 students with part time or summer jobs, Act 26 data for 2021-2022¹¹ reflects 2001 unique individual students across quarters and a slight drop to 854 students from 862 who received job coaching.

Similar to number 6, data from PDE is a year earlier than this reference, however, the number of students who received job coaching and other supports funded by the school is reported as 9,810 and warrants that this goal be increased by the Commission.

Table 9. Number of “unique” student participants served

¹¹ <https://www.dli.pa.gov/Individuals/Disability-Services/Documents/Act-26-SFY-2021-2022-Q4-Report.pdf>

	Students age 14+ that have a transition plan as part of their (field 45)	Student (age 14+) participated in a competitive integrated paid work experience (field 73)	Student (age 14+) participated in individual job coaching services funded by the school in a paid work experience (field 74)	Student (age 14+) has an outcome goal of competitive integrated employment (field 75)	Upon exiting high school, the student (age 14+) was employed in a competitive integrated setting (field 76)
School District	100,741	8,541	8,036	67,059	13,292
Charter School	5819	508	1,351	4,790	312
Cyber School	7823	338	423	6,825	210
Total	114,383	9,387	9,810	78,674	13,814

PDE is collecting 2021-22 data now and will provide that final data to OVR when the collection is complete. Act 26 does not require OVR to display the PDE data as shown above. PDE will provide the EFOC with a similar table for 2021-22 in a few months that they can use to inform their 2023 Annual Report.

- 8. (Revised measurable goal). Annually each of the Community HealthChoices (CHC- AmeriHealth Caritas, PA Health and Wellness, Keystone First, UPMC) OLTL managed care organizations will increase by 50 percent the number of working-age participants who are either employed in competitive-integrated employment, receiving CHC-funded employment services, or are documented to have been referred to either the Office of Vocational Rehabilitation (OVR) or a Work Incentives Planning and Assistance (WIPA) program for benefits counseling.**

Employment services are required under the CHC contract and part of the capitated payments managed care organizations receive to support individuals with disabilities.¹² During the first three EFOC reports, the Commission established a goal of 200 additional CHC participants per year achieving CIE because it believed it was a reasonable and attainable goal given the infancy of the CHC program. Yet, with four years having passed since the existence of the EFOC and since the CHC started its rollout, little to no material progress has been or is being made.

There are 58,689 participants ages 21-64 enrolled in CHC [data for ages 18-20 not included because CHC only serves people ages 21 and older.] According to data provided by OLTL, only 433 CHC participants ages 21-64 were employed in competitive-integrated employment¹³. While this is up from 266 reported in last year’s report, the 433 represents only 0.74 percent of working-age CHC participants.

¹² CHC Agreement: <https://www.dhs.pa.gov/HealthChoices/HC-Providers/Documents/2021%20CHC%20AGREEMENT.pdf> The CHC-MCO must include employment-related needs and service requirements of Participants as part of the person-centered service plan. Details are found on page 118.

¹³ OLTL “Ops 22” and Standard CHC Enrollment Reports for calendar year 2021

In addition, only 1074 participants (1.8%) had an employment goal in their person-centered support plan, which raises questions as to what barriers may be preventing effective conversations about employment on a regular basis. Further, only 205 of the 1074 had employment services authorized (that’s only 20% of those with an employment goal, only 0.3% of the total working-age participants). While the Commission understands that employment services may not always follow a linear path due to a focus on person-centered planning and individualized circumstances, this data begs the question why a participant would tell their Service Coordinator that they have a goal of employment, but the Service Coordinator would not have any employment services authorized in the support plan.

It’s possible that, before having employment services authorized, the participant would be referred to either a WIPA program (to determine to what extent earning money might jeopardize their health care or HCBS) or to OVR (as federal rules only permit Medicaid funds to pay for employment services only after the person has tried to get assistance from OVR). However, when counting all participants’ employment outcomes, employment services authorized, or referrals to either OVR or WIPA, the numbers don’t really improve. The total number of participants who meet one of those categories totals 1546, or a mere 2.6 percent of all working-age participants enrolled in CHC.

Managed Care Organizations (MCOs) under contract with OLTL to provide in-plan services are the following:

- AmeriHealth Caritas (also known as Keystone First CHC in parts of the state)
- PA Health and Wellness
- UPMC

The low results shown by OLTL by the three MCOs, in Table 10 below, is why the Commission has urged the General Assembly to hold hearings for the purpose of holding OLTL and the MCOs accountable (see recommendation 3) to the requirements of Act 36 and the MCO provider agreements.

Table 10. Number of Unique HCBS Participants Aged 21-64 Enrolled in CHC by MCO in 2021

2021			
Measures	AHC/KF	PHW	UPMC
Total Unique HCBS Participants Aged 21-64	32,361	10,542	15,786
Goal Documented on PCSP Count	582	279	213
Goal Documented on PCSP %	1.80%	2.65%	1.35%
Authorizations Count	63	24	118
Authorizations %	0.19%	0.23%	0.75%
Employed Count	330	86	113
Employed %	1.02%	0.82%	0.72%
Confirmed CIE Count	303	84	46

Confirmed CIE %	0.94%	0.80%	0.29%
CIE – No	27	*	12
CIE – Not Confirmed	*	*	55
Referred to Employment Services – OVR	15	*	24
Referred to Employment Service - Benefits Counseling	*	*	*

Source: Ops 22 and Standard CHC Enrollment Reports for CY2021 (CIE: Competitive Integrated Employment)

All percentage calculations are based on "Total Unique HCBS Participants Aged 21-64" as denominator

Counts 1-10 and related percentages are suppressed with use of '*' for confidentiality purposes.

Where applicable, 2nd lowest percentages are also suppressed to avoid reverse engineering.

Table 11. Number of Unique HCBS Participants Aged 21-64 Enrolled in CHC by MCO in 2020

2020			
Measures	AHC/KF	PHW	UPMC
Total Unique HCBS Participants Aged 21-64	30,455	12,420	14,776
Goal Documented on PCSP Count	532	209	61
Goal Documented on PCSP %	1.75%	1.68%	0.41%
Authorizations Count	51	11	102
Authorizations %	0.17%	0.09%	0.69%
Employed Count	299	19	73
Employed %	0.98%	0.15%	0.49%
Confirmed CIE Count	241	18	*
Confirmed CIE %	0.79%	*	*

Data Source: Ops 22 and Standard CHC Enrollment Reports for CY2020 (CIE: Competitive Integrated Employment)

All percentage calculations are based on "Total Unique HCBS Participants Aged 21-64" as denominator

Counts 1-10 and related percentages are suppressed with use of '*' for confidentiality purposes.

Where applicable, 2nd lowest percentages are also suppressed to avoid reverse engineering.

Figure 3. Percentages of Employment by Race, by MCO – December 2021

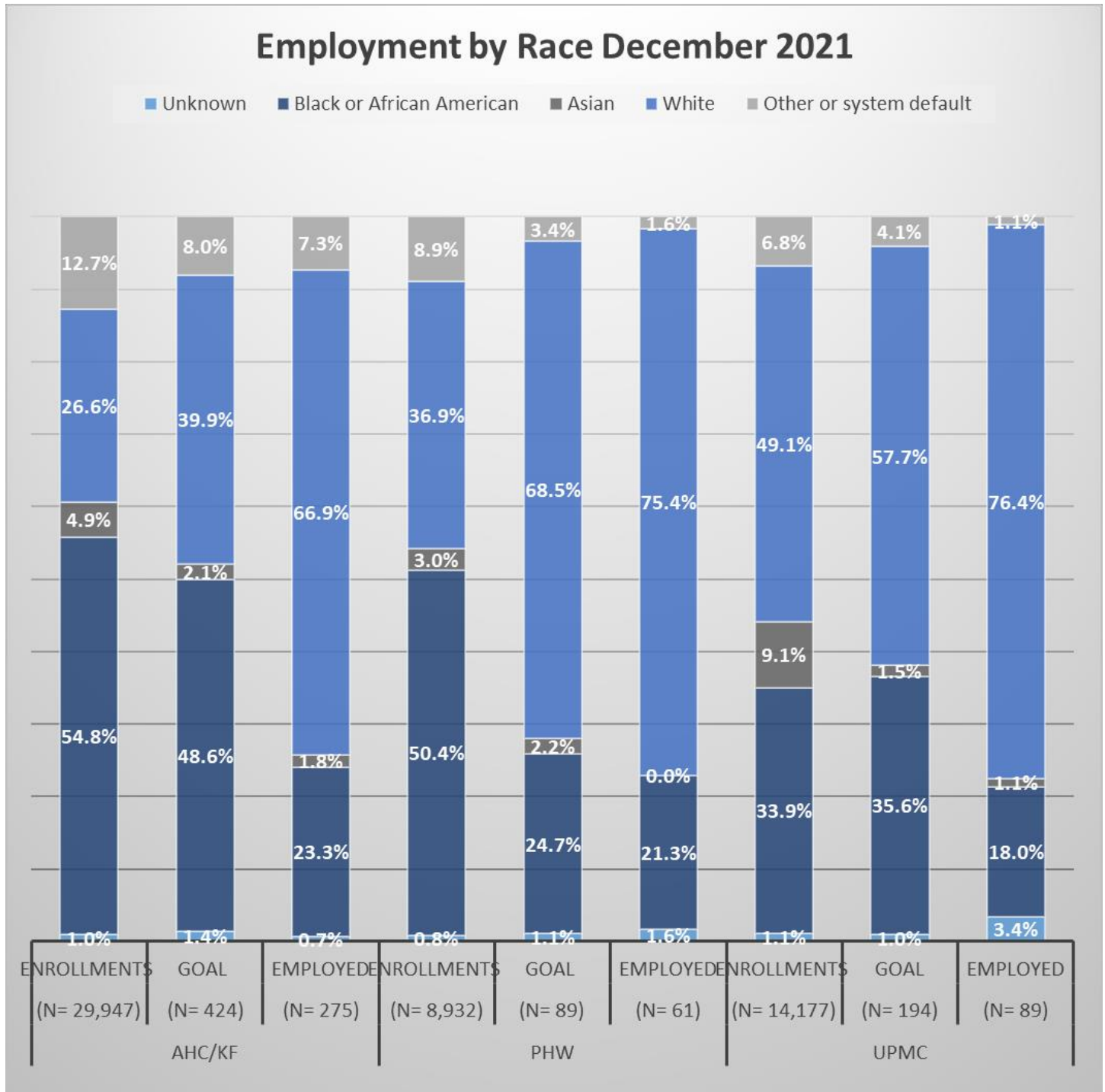
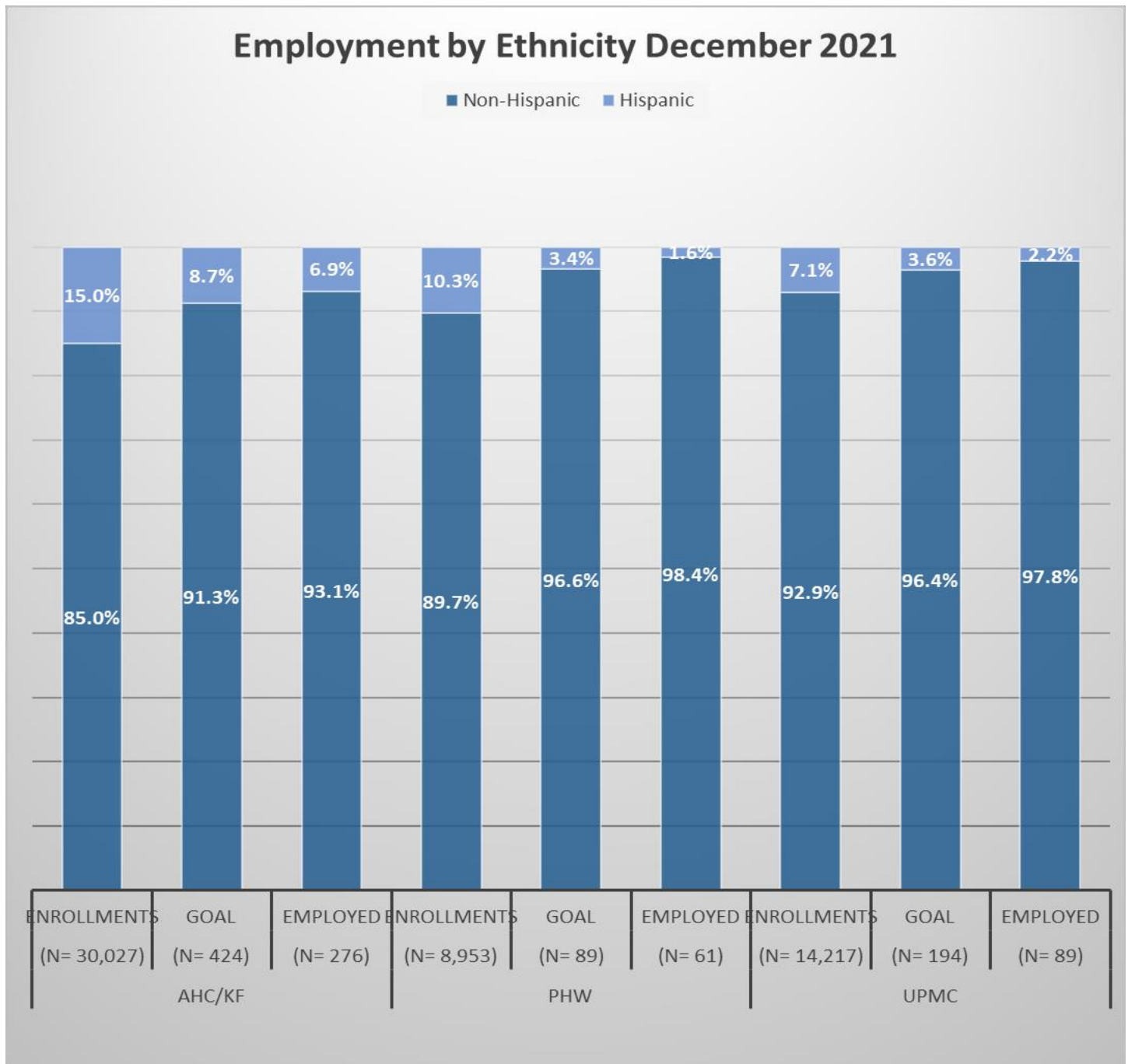


Figure 4. Percentages of Employment by Ethnicity, by MCO – December 2021



Finally, for this report, the Commission asked for all data submissions to be broken down by race and ethnicity for the purpose of determining whether any potential disparities exist. The numbers of participants employed or with employment goals in their plans are very low which makes it challenging to draw accurate conclusions without further analysis. Yet within the data provided, it appears that disparities may exist between white participants and those in minority populations. Every MCO seems to show fewer Black/African American participants and fewer Hispanic participants having an employment goal relative to the overall percentage of enrollees in the group, as well as fewer having employment relative to the number who have an employment goal in their plan. The Commission urges OLTL and the MCOs to examine these numbers, confirm whether disparities do exist, identify causes for such disparities, and take remedial steps.

9. OMHSAS (Office of Mental Health and Substance Abuse Services) will annually report and employ at least 600 additional people receiving services to employment.

Last year, the Commission was informed by the state that the data source used was not reliable for complete information and so the Commission did not report on any measurable progress in the 2021 report. The Commission was informed that OMHSAS was now requesting a more comprehensive set of employment data through their annual county report, which were due to be returned at the end of July 2021. For its 2022 report, the Commission received the information below pertaining to employment/vocational services received by county or county joinder. The Commission had requested data for the total number and percentage employed in competitive-integrated employment, and then that data disaggregated by those with mental health only and those with substance use disorder only. The Commission did not receive the data as requested; rather, it only received data on the number of people receiving employment/vocational services (not necessarily in CIE) and it was not disaggregated between mental health only and substance use only.

Table 12. Number of People Receiving Employment or Vocational Services Through County/Joinder Mental Health Program for State Fiscal Year 2020-21

County/Joinder	# People
ALLEGHENY	323
ARMSTRONG/INDIANA	24
BERKS	49
BLAIR	48
BUCKS	73
CAMBRIA	20
CARBON/MONROE/PIKE	11
CHESTER	39
CUMBERLAND/PERRY	63
DAUPHIN	37
FAYETTE	36
FRANKLIN/FULTON	<11
LACKAWANNA/SUSQUEHANNA	<11
LAWRENCE	<11
LEBANON	<11
LEHIGH	39

LUZERNE/WYOMING	<11
MONTGOMERY	113
NORTHAMPTON	57
PHILADELPHIA	114
SCHUYLKILL	36
TIOGA	<11
WARREN	<11
WASHINGTON	101
YORK/ADAMS	99
Total	1347 ¹⁴

10. By 2022, the Pennsylvania state workforce [includes state agencies and state colleges/universities] will exceed a 7% hiring goal.

Workforce: In 2019, the Commonwealth reported surveying its 77,000-person workforce and received responses from roughly 14% of employees, indicating approximately 4.8% of Commonwealth employees identified as having a disability. OA told the Commission it had planned to send out the survey and assess again in October 2020 but that did not happen as a result of new steps being taken to better understand the makeup of the state workforce. In response to the Commission’s 2022 data request, OA said,

“We do not have an updated estimated number of state workers who have a disability. (The initial survey had a low response rate resulting in too small of a sample size to convey an accurate/usable data point. A new survey has not been conducted at this time, as the focus has been on the new questions included at application and during onboarding).”

Application: For the 2021 report, OA reported that the Commonwealth had added a question about disability to its applicant tracking system in 2020, which would provide *“a solid annual comparative data point starting in 2022.”* In response to the Commission’s 2022 data request, the following was provided:

- As of July 25, 2022, 6.2% of applicants who have applied to Commonwealth jobs report having a disability.

Onboarding: For the 2021 report, OA reported it would add a question about disability to its new hire onboarding process, saying it would provide a “corroborating data point to enable consistent year-to-year analysis.” According to OA, the self-disclosure-of-disability question was added to the Commonwealth’s online onboarding process effective June 2021. In response to the Commission’s 2022 data request, the following was provided:

¹⁴ According to data provided by OMHSAS, 55% male and 45% female; 68% White; 24% Black/African American; 1.2% Asian; 5% “Other”; 1.7% unknown; and, no data provided for Hispanic.

- Since July, 1, 2021, 5% of Commonwealth new hires report having a disability.

11. All counties will have (or be part of) at least one Local Cross-Disability Employment Coalition.

As of July 16, 2022, the Department of Human Services reported that 54 out of 67 counties have created or participate in an existing local-level interagency employment coalition. This is the same number as reported the same time last year. It is the Commission’s understanding that Local Transition Coordinating Councils are counted as an employment coalition (the Commission agrees that an LTCC can function as an effective employment coalition so long as it includes adult disability service providers and other relevant stakeholders). The Commission requests that a list of the 13 counties that still do not have or are not part of a local employment coalition be provided, along with a summary of the reasons why, in the state agencies’ estimation, progress has not been made in those counties and what if any plans are underway to create or connect employment coalitions to those counties.

IV. Recommendations

A. Recommendation for both Executive Branch and General Assembly

- 1. Recommendation. That state contractors under Section 520 of the Procurement Code be prohibited from delivering goods and services using subminimum wage labor under 14c certificate authority (if this can be done without statutory change, then the Commission recommends that the PA Department of General Services implement the change administratively); in addition, that the General Assembly review whether and to what extent the direct labor percentage requirement of 75% contained in Section 520 of the Procurement Code may be inconsistent with the Employment First policy established by Act 36 of 2018; and, that the General Assembly consider reducing the direct-labor percentage in a manner that promotes integrated work settings as defined by the Act.**

Section 520 provides a “no competitive bid” construct that enables businesses that affirmatively employ workers with disabilities to secure state contracts for products and services at a fair market price as determined by the PA Department of General Services (DGS). Current law requires that 75% of the direct labor used to make the products or deliver the services must be people with disabilities. The 75% direct labor ratio has led to questions of how competitive-integrated employment can be achieved when 75% of direct labor employees make up the workforce per contract. While most businesses operating under 520 pay competitive wages, a few still utilize federal 14c certificates to pay subminimum wage (estimated under 2% of direct labor). By ending subminimum wage for Section 520 contracts and revising the direct-labor ratios, the benefits of 520’s affirmative employment for Pennsylvanians with disabilities would continue and only jobs that provide competitive wages and integrated (not segregated) work environments will be advanced. For illustration purposes, one approach might be to establish a minimum and maximum direct-labor percentage (with a time-limited margin of error permitted so a company doesn’t become ineligible if the percentage briefly goes under or over the designated ratio ranges). The Commission believes any direct-labor ratio that results in or has the effect of promoting congregate work settings where the majority of all workers in a work environment have disabilities is inconsistent with Employment First policy and should be discouraged.

B. Recommendations for the PA General Assembly

- 2. Recommendation. That Act 36 of 2018 be amended to create and fund the position of “Executive Director, Employment First Oversight Commission” that is a salaried state employment position, located either in the Governor’s Office, Department of Labor and Industry, or Department of Human Services.**

Now in its fourth year, it has become clear that, given the complexities of the issue, policy considerations, data demands, and agency coordination requirements to fulfill the requirements of the

Act, the Commission's duties as outlined by the Act require dedicated staff to perform in a manner consistent with the expectations of the legislature. Convening and preparing for Commission meetings and the meetings of its committees, requesting, analyzing and monitoring data requests of the executive branch agencies, reviewing and analyzing employment first plans published by the executive branch as required by the Act, and drafting, finalizing, and publishing the Commission's annual report are the kinds of duties and responsibilities that are simply too much for volunteer Commissioners. If the legislature wants the Commission to be effective, a dedicated paid staff member is needed. In the alternative, contracted staff support to perform the aforementioned duties, paid for by either L&I or DHS, might suffice.

- 3. Recommendation: That the Employment and Unemployment Subcommittee of the House Labor and Industry Committee and the Disability Employment and Empowerment Caucus hold annual hearings to examine employment data, employment service utilization, and employment outcomes for working-age participants in the Community HealthChoices (CHC) program. In its testimony, OLTL should be asked to delineate the steps it has taken during the last year to increase employment outcomes for its working-age CHC participants and the results of those steps.**

According to its own data, OLTL is not making adequate progress when it comes to increasing employment service utilization and employment outcomes for working-age people with disabilities served in CHC. Data reported for the 2022 EFOC report continue to show low outcomes.

According to data provided by OLTL, very few participants in CHC are working and/or receiving employment services. There are 58,689 working-age people enrolled in CHC, but only 433 have a competitive-integrated job (less than one percent, at 0.74%). And only 1074 participants have an employment goal in their Individualized Service Plan (1.8%).

While the CHC MCOs, as well as OLTL, are quick to point out the many current and historical barriers to employment within the diverse population being served, there are basic concrete advances that could be made. For example: improving the rates paid to employment service providers and matching them to similar employment services paid by other programs within DHS like ODP; addressing the dearth of OLTL employment providers by specifically incentivizing ODP employment providers to become OLTL-approved; and, implementing (at least piloting) innovative value-based purchasing (VBP) strategies rather than relying strictly on traditional fee-for-service. (Regarding VBP, data exists showing that individuals gaining employment will show decreases in behavioral and physical health utilization and costs. The tracking of those indicators could be part of the VBP solution.)

Finally, it's the Commission's understanding that OLTL has proposed that there be a waiver to the federal requirement that a referral be made to OVR for Benefits Counseling before CHC could pay for the service itself. This would be a good step in overcoming an existing systemic hurdle.

- 4. Recommendations. That the General Assembly study and issue a report on the return on investment of the Office of Vocational Rehabilitation's Hiram G. Andrews Center (HGAC) as compared to traditional customer services delivered by OVR.**

There are only 7 other known facility-based programs remaining in existence like HGAC nationally. The Commission continues to believe an in-depth review of this facility-based program and its return on investment (ROI) ought to be conducted by the General Assembly. Approximately \$23 million is directed from OVR's traditional services to fund this 24/7 campus operation. OVR's per-customer cost for HGAC students is significantly higher than its traditional customers, yet it is unclear what value graduates of HGAC are getting as compared to OVR's traditional customers or OVR customers who

attend typical post-secondary vocational programs. The review should consider whether these resources could be effectively re-directed to traditional OVR services and/or regional or county career technical programs and/or community colleges where individuals with disabilities can learn alongside other students, which will enhance their skills to work and live in their community. This recommendation has been included in each of the four EFOC reports.

5. Recommendations. That the General Assembly pass legislation and the necessary funding that requires each school district to have (according to population size) one or more full-time dedicated and highly qualified and/or credentialed Transition Coordinator to support employment, and requires the Pennsylvania Department of Education to ensure compliance with that requirement.

The Commission understands that meeting staffing needs at the local education agency (LEA) level is challenging and mandating certain positions will cost money, yet at the same time the Commission believes that the status quo fails to deliver on Employment First policy as established by the legislature in Act 36 of 2018. Too many LEAs assign “transition coordinator” responsibilities as an “additional duty” to staff who have other full-time jobs within the LEA. Simply “complying” with current rules to have a transition coordinator is not getting the job done. Based on the size of the student population served, LEAs should have at minimum one transition coordinator whose full-time role is to perform transition coordinator duties, individualizing community-based activities, especially employment. The new requirement should be supported with new financial resources.

6. Recommendation. That the General Assembly amend Act 36 of 2018 or the state Civil Service Reform Act to remove roadblocks to employment and ensure access and inclusion for people with disabilities to be hired by state government agencies.

By creating something similar to the federal government’s “Schedule A” process¹⁵ (a special appointing authority that agencies can use to non-competitively hire individuals who have a significant disability), qualified applicants with a disability would have bureaucratic barriers eliminated or mitigated, giving them access to good jobs in state government. It may be possible for the Executive Branch to implement such improvements without legislation, but it remains unclear and the General Assembly may want to hold hearings on this topic. Finally, in addition, if the General Assembly pursues such legislation, it ought to also include a section that implements the Commission’s recommendation on “customized employment”, which is simply to permit state agencies to create a “customized employment” job classification beyond the current OA pilot of customized employment, which would enable people with disabilities to be hired who can perform some of the duties listed in a canned job description but not all - developing a “customized” position that marries the abilities of a person with a disabilities with the needs of a state agency would create employment opportunities for otherwise qualified applicants with disabilities who, due to the disability, may be able perform some duties but not all as arbitrarily written into a state job description. (The Governor’s Office of Administration is piloting one customized employment position in the Department of Revenue, which is commendable; yet, the EFOC believes the model should be taken to scale in a timely manner across all state agencies – legislation would help make this happen.)

¹⁵ <https://www.usajobs.gov/Help/working-in-government/unique-hiring-paths/individuals-with-disabilities/>

C. Recommendations for state agencies in the executive branch: Governor’s Office - Cross Agency Recommendations

7. Recommendation. That real cross-agency collaboration and coordination be a core value of any and all activities undertaken by state agencies in their pursuit of Act 36 of 2018 compliance.

8. Recommendation. Public Surveys:

- a. **Customer feedback system should be created and an impartial, outside evaluator (across systems) be hired.** It is imperative for Pennsylvania to establish a cross-department, customer response system and/or surveys for all publicly-funded services regarding Employment First. Pennsylvanians with disabilities are in the best position to know and understand which systems or services are working (and where) and what challenges continue to exist, including response time for employment services from state agencies and providers. These data and comments should be shared publicly after names and identities are redacted.
- b. **Expectations for Employment (starting in Early Intervention)** Youth and adults with disabilities and family members/caregivers should be surveyed to determine expectations for employment (starting in Early Intervention) to understand the misperceptions about the ability of adults with disabilities to be employed (irrespective of the impact of one’s disability. The survey should assess the real or perceived impact of earning money on life-sustaining public services, and other barriers that exist for people who want to work. The Commission is available to support this process.

9. Recommendation. Measure “on-time delivery” of all state-funded services and implement management plans for continuous improvement.

People with disabilities who have signed up or requested employment services in any state agency or program should be served within 3 months. Multiple measures, including outcomes by department, should be created by individuals’ case numbers (across all departments) to track time, use of services, and employment outcomes/retention.

While OVR already has timelines required by federal law, the data that is collected may not be sufficient to understand customer issues that are known to persist. Moreover, it is not clear whether any other state agency-funded system has service timelines and collects/reviews data.

In addition (about any agency), it is not known what if any satisfaction measures are given and reviewed. All employment-related systems should have consistent satisfaction and timeline measures for the individuals who use their services. Data should be publicly available (redacted for personal information), and state agencies should use this data to make cross-system policy and program improvements.

10. Recommendation. In alignment with Goal 11, every county should have or be a member of a Local Employment Coalition that brings together relevant parties to consider and implement new or improved ways that lead to more competitive-integrated employment outcomes for people with disabilities.

If Local Transition Coordinating and Employment Councils (LTCCs) are going to be utilized as a Local Employment Coalition, then the LTCCs need to have all adult disability service systems, providers and county representatives attending regularly.

- 11. Recommendation. The state’s publicly available Employment First “data dashboard” for disability employment-related data should include the number of 14c certificates that are approved in Pennsylvania (and the number “pending”), the counties in which they are located, and the number of people with disabilities earning wages calculated in a manner prescribed by the employer’s 14c certificate authority.**

While the number and percentage of people getting and holding competitive-integrated employment is the most important metric policy makers ought to be monitoring, the number and percentage of people getting paid subminimum wage is probably the second more important metric. The number of 14c certificate holders in Pennsylvania and the number of Pennsylvanians being paid subminimum wage are publicly available data from the U.S. Department of Labor.

- 12. Recommendation. Strategies to collect and report better data on people with disabilities who are considered employed but not meeting the definition of competitive-integrated employment should be established through data-sharing arrangements between state agencies, especially for outcome data via Community HealthChoices; and such data should be shared publicly.**

In data provided for this report, OLTL reported that a total of 433 participants were employed with confirmed competitive-integrated employment, while another 94 were reported to have either non-CIE or employment that could not be confirmed to be CIE. OLTL should provide additional information about the kinds of jobs and compensation for those 94 participants, why 39 of the 94 had confirmed non-CIE jobs, and what steps the MCOs are taking to make “competitive-integrated employment the first consideration and preferred outcome” for those 39 to 94 participants as required in Act 36 of 2018.

- 13. Recommendation. That data collected on all disability employment-related programs should be reported broken down by race/ethnicity and other demographic groups.**

Data to implement the Act should be collected and reported showing people with disabilities by race/ethnicity, gender, gender identity, sexual orientation, and English as a second language to ensure the needs of all Pennsylvanians with disabilities are being met. The 2022 report includes some beginning efforts that agencies have made to capture this data. All data provided by the Commonwealth should be broken down by these categories so that potential disparities can be identified, evaluated, and addressed.

- 14. Recommendation. That the Governor’s Policy Office, in collaboration with OA and OVR, convene a work group that includes external disability experts in the fields of disability employment and workplace accessibility to review the state’s existing job classifications and job descriptions, recruitment process, application process, testing/qualification determination process, interview process, hiring/candidate selection process, onboarding and new-hire training process, accommodation process, physical site and information technology accessibility issues, and retention efforts.**

After a comprehensive review, the panel of experts should develop recommendations on how to improve these processes and procedures to honor goals and objectives outlined in the Act.

- 15. Recommendation. That the Governor’s Disability Cabinet makes transportation a higher priority; and that PennDOT regularly attends Commission meetings and be an active member of the Governor’s Office team of agencies actively working on employment first.**

Despite efforts by the administration to date, transportation continues to be a significant barrier for people with disabilities who want to work in a competitive-integrated job and need to get to and from work on time, every time.

- a. Surveys and data collection should be undertaken that inform policy and program decisions pertaining to publicly-funded programs within PennDOT and the Department of Human Services (DHS).
- b. DHS should amend its Home and Community-Based Waiver programs to make it easier for Medicaid Home and Community-Based Service waiver participants to access and pay for transportation-on-demand services (e.g., Uber, Lyft, etc.) on their mobile phones using waiver funds allocated in their service plan.
- c. PennDOT should allow, encourage and fund pilot programs across Pennsylvania within the Shared Ride Program for People with Disabilities to test and evaluate transportation on demand. Shared Ride providers are already Medicaid-enrolled providers (Uber and Lyft are not), making it more feasible to test new and innovative transportation models for participants enrolled in Medicaid HCBS waivers who want to work.

16. Recommendation. That financial education becomes an employment service that is included in the offerings to eligible customers/participants by the Office of Vocational Rehabilitation (OVR) and Home and Community-Based Services (HCBS) waiver programs (in both the Office of Developmental Programs and the Office of Long-Term Living), as well as in special education programs for transition-age students who have Individual Education Programs (IEPs).

Financial education (also referred to as financial literacy) is key for people with disabilities who want to work to become independent. All people, including people with disabilities, must have the information they need to make decisions about budgeting, earning money, saving safely, paying taxes, building positive credit, protecting against identity theft, etc., as well as knowing how earnings and assets might impact eligibility for life-sustaining benefits such as Medical Assistance and HCBS waivers and the opportunity to participate in the Medical Assistance for Workers with Disabilities (MAWD-Medicaid) program. Understanding the ABLE savings program and supported decision-making vs guardianship are also vitally important to those who want to consider working or for those who have jobs and want to continue working.

D. Department of Education Recommendations

17. Recommendation. That the PA Department of Education publish Act 26 data in a way that separates results between cyber schools, brick-and-mortar schools, and by LEA.

Data on support and employment on students receiving transition services in a cyber compared to students in home & charter schools should be reported separately so that potential disparities can be identified, evaluated and addressed.

18. Recommendation. That local education agencies (LEA) establish as a goal for every student with an IEP measured in the IEP meeting process: that they lead their own meetings; encourage and support self-advocacy; permit (if they choose and if necessary) students to disclose their disability and identify the types of accommodations they need to be successful in a job.

The Commission believes PDE should set these goals and research and report on skills across all students and districts. These measures should be taken at least once while the student is in school and 12 months after graduation. This is critical as successful outcomes are likely to lead to strong self-advocacy and leadership skills, both of which are needed during adult life to secure and keep

competitive-integrated employment.

19. Recommendation. All students with a disability who are likely to rely on Medical Assistance for their health care and Medicaid-funded Home and Community-Based Service waiver should be referred to a WIPA program for benefits counseling before they leave high school.

Benefits counseling has been shown to be a promising practice in vocational rehabilitation and has had a demonstrated impact on positive employment outcomes for adults with disabilities receiving SSA benefits.¹⁶ Transition-age students through age 26 are already a priority population for WIPA benefits counseling, yet not all students are aware of the no-cost service. Earning “too much” and the resultant fear of losing life-sustaining health care and home-based services are one of the biggest reasons many people with disabilities will not pursue employment. Yet, it’s a myth that people with disabilities cannot both work and receive benefits, and the new MAWD legislation and changes to waivers have helped to increase potential. Both young people with disabilities and their parents should be referred to WIPA before the student leaves school so that informed decisions about having paid work experiences during high school and getting competitive-integrated employment after high school can be made.

20. Recommendation. That 100% of students with an IEP, when they leave high school, either have a competitive-integrated job, a post-secondary education placement, or a plan in place with OVR, ODP, or OLTL-funded program for services intended to lead to competitive-integrated employment or a post-secondary education placement.

The Commission requests that some measure, even a random sampling of students and/or IEPs, be monitored (and the results made available to the Commission) to ensure students are connecting to an actual job, an educational placement, or an employment service when they transition from secondary education to adult life.

- The Commission would like this to be a measurable goal in the next plan.

E. Department of Labor and Industry Recommendations

21. Recommendation. That Workforce Development allocates funding for innovation for Employment First efforts that support promising practices that increase employment for people with disabilities within businesses.

People with disabilities represent arguably the largest untapped labor pool. Workforce Development dollars in each region should be prioritized to provide businesses and provider organizations with mechanisms to develop new and innovative ways to help businesses recruit, support and retain qualified people with disabilities to meet workforce needs.

For example, during the spring of 2020, L&I issued a request for proposal (RFP) that would support promising practices by businesses when it comes to increasing the hiring of talent with disabilities. This

¹⁶ Schlegelmilch, Amanda et al. ‘The Impact of Work Incentives Benefits Counseling on Employment Outcomes of Transition-age Youth Receiving Supplemental Security Income (SSI) Benefits’. 1 Jan. 2019 : 127 – 136.- The study shows significant increases in employment outcomes for transition-aged youth with disabilities who received work incentive benefits counseling services. Not only were youth who received benefits counseling more than twice as likely to secure employment than those who had not, they were also more than four times as likely to earn over substantial gainful activity (SGA). This outcome is significant as it underscores the importance of work incentives focused benefits counseling as an employment intervention for youth.

RFP was very encouraging. Unfortunately, the grants were never awarded, apparently due to the COVID-19 public health emergency. It is hoped that L&I will resurrect this grant opportunity.

22. Recommendation. That the PA Department of Labor and Industry track the labor participation and unemployment rates for Pennsylvanians with a disability and publish the data (i.e., press releases, etc.) at the same time it publishes similar data for other Pennsylvania cohorts.

- a. L&I's Center for Workforce Information and Analysis provided data for this topic to the Commission (see appendix 4), and information is also available on the public Employment First data dashboard, which is appreciated; yet the recommendation is for this data to be published alongside other mainstream employment data. Having such data published alongside other mainstream workforce data keeps the issue front and center.

F. Department of Human Services Recommendations

23. Recommendation. That Supports Coordinators/Service Coordinators be financially incentivized to promote employment with participants in publicly-funded home and community-based service programs.

By definition, "employment first" requires that competitive-integrated employment be the first consideration and preferred outcome of several publicly-funded services. The Supports Coordinator (SC) in the Intellectual Disabilities/Autism program and the Services Coordinator (SC) in the Community HealthChoices program, both of which are funded by the PA Department of Human Services, are the first and primary place where employment can and should be discussed with the program participant. SCs have the ability to encourage and promote employment with participants, yet not enough improvement in the numbers are being realized, specifically in the following areas that can be tracked by SC and SC Organizations:

- Employment as a goal in participants' Individualized Support Plan (ISP)
- Employment services authorized in the ISP
- Employment services provided
- Referrals to the Office of Vocational Rehabilitation
- Referrals to Work Incentive Program Assistance (for benefits counseling), and
- Competitive-integrated employment outcomes.

SCs are busy, and there is high turnover in this profession. On its face, it is "easier" on the SC when a participant chooses a facility-based program rather than trying CIE. Financial incentives should be offered so that SCs are rewarded for their performance when it comes to meeting "employment first" performance indicators. Doing so is also in line with the overall movement in the field to Value Based Payment (VBP) initiatives, which is paying for services in an alternative manner and incentivizing quality and outcomes.

24. Recommendation. That rates for supported employment services paid via the Office of Developmental Programs and Office of Long-Term Living (Community HealthChoices) be increased, and that it's done annually, so that there is no longer a financial disincentive for providers to deliver CIE-related services.

In OLTL's Community HealthChoices program, the numbers of participants working or receiving employment services are poor - one of the complaints often heard is that rates are low and few if any providers want to get into the business of providing employment services. In ODP, three of the four supported employment service codes received only a 0.9% rate increase - this increase was the first in

five years! And ODP regulations do not require that rates even be looked at for another three years. Supported employment service providers need rate increases to keep up with the cost of delivering services. With labor cost inflation, fuel inflation, health care inflation, etc. the Commission fails to see how the state can claim it is complying with Act 36 by providing financial incentives to make competitive integrated employment a priority. Rates, at the very least, should keep up with inflation, and providers should be able to count on annual rate increases, not increases every 5 to 8 years.

25. Recommendation. Examine which licensed facilities are permitted to support subminimum wage activities and then consider limiting the use of base or waiver funding to pay for services that support subminimum wage activities to only licensed 2390 Vocational Facilities (and not permit such funding to support subminimum wage activities in licensed 2380 Adult Training Facilities).

DHS should clarify where its funding is being used to support subminimum wage activities and ensure that the people receiving such funding are doing so in the most appropriate licensed facility. State law defines 2380s and 2390s. A plain reading of the definitions suggests the most appropriate site for subminimum wage activity is a 2390. Allowing services to support subminimum wage activities in other facilities may cause confusion for regulators, funders, and those monitoring services, and raises the question of whether appropriate health and safety protections afforded in 2390s are being provided in 2380s. If the analysis suggests there are no differences, then why are there two separate types of facilities?

26. Recommendation. Increase systems and public awareness regarding Medical Assistance for Workers with Disabilities (MAWD) and the MAWD/Workers with Job Success” statute.

MAWD: Workers with Job Success (Act 69 of 2021) creates a new category for eligibility under MAWD, allowing workers with disabilities to earn more and save assets. Public awareness and outreach is essential. Education on these changes should be provided annually to disability advocacy and service organizations, county assistance offices, OVR customers, and people with disabilities.

27. Recommendation. ODP should reexamine and reform, if necessary, the service definition for “Advanced Supported Employment”, including eligibility, rate amounts, and the method of service reimbursement.

Utilization of this service is extremely low, which the Commission believes could be a result of a) the limitations contained in the service definition in terms of the pre-conditions required before a person is eligible for the service b) and b) the fact that the rate is paid on an outcome basis, which may serve as a disincentive for providers to provide the service.

28. Recommendation. ODP should report separately on use of base dollars to support non-CIE outcomes.

It is still unclear whether and to what extent county base dollars are being used to pay for services to support a person in an activity that pays subminimum wage. ODP should report, by county, the amount of state-allocated base dollars used, and how many people it is used for, to support people performing subminimum wage activities for a 14c certificate holder.

29. Recommendation. That the state include percentages (instead of “zero”) when numbers need to be suppressed due to confidentiality concerns.

Including a percentage in these cases could support the Commission and other evaluators with performing oversight roles without giving the actual number.

30. Recommendation: That Community Autism Peer Specialist Program (CAPS) be expanded to other regions of the Commonwealth, with funding coming from Behavioral HealthChoices, ODP, and/or OVR.

CAPS is an innovative initiative developed by Community Behavioral Health (CBH), the behavioral health managed care organization overseeing Behavioral HealthChoices in Philadelphia. It is based on the Certified Peer Specialist Model and specifically targets employment services as a positive outcome for young adults (ages 14-17) and adults.

31. Recommendation. The Commission supports the Department of Human Services efforts to implement value-based purchasing arrangements in the Behavioral HealthChoices program that include addressing employment as a social determinant of health.

Data should be collected and submitted by Behavioral Health Managed Care Organizations (BHMCOs) to DHS for publication similar to what is collected by ODP and OLTL and on an annual basis.

The only employment services offered currently are at the county level on a voluntary basis. Some innovative employment supports are being offered, yet the types of services and their availability are not consistent statewide. Having a job can positively impact a person with behavioral health issues and ensuring employment supports are available to participants is likely to provide the Commonwealth a net positive return on investment. Moreover, failing to do so is inconsistent with the Act's Employment First policy, which requires that publicly funded programs make employment the first consideration and preferred outcome.

The State Office of Mental Health and Substance Abuse Services (OMHSAS) informed the Employment First Oversight Commission that, based on the Medicaid waiver approved for the Behavioral HealthChoices program, employment services are not permitted by the federal Centers for Medicare and Medicaid Services to be an in-plan service. Therefore, employment services are pursued on a county-by-county basis by county mental health/behavioral health programs. However, this is under the base fee-for-service HealthChoices program in place.

To address this issue, according to DHS/ OMHSAS employment services will be built into the "Community-Based Care Management" program, allowing BHMCOs to choose employment as a social determinant of health. DHS can further support this effort by building it into the oversight of the Regional Accountable Health Councils (RAHCs) that are being developed statewide as part of its Healthcare Reform Plan.

DHS should also consider alternatives, such as building employment into value-based payment programs. Specifically, BHMCOs are being required- at an increasing amount/percentage of provider payments each year- to implement creative alternatives to traditional fee-for-service reimbursement. Under this scenario, BHMCOs can incorporate employment as a process and an outcome to reward successful, quality providers and pay for these services. As an example, the successful initiation of employment could be tracked as an offset to decreased behavioral and physical health expenditures. This is an area for further discussion and exploration given the limitations of the existing Medicaid waiver.

V. Appendices

A. Act 36 of 2018

EMPLOYMENT FIRST ACT - ENACTMENT

Act of Jun. 19, 2018, P.L. 229, No. 36

Cl. 35

An Act

Providing for competitive integrated employment in State and county agencies and any entity providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability; establishing Employment First, the Governor's Cabinet for People with Disabilities and the Employment First Oversight Commission and providing for their powers and duties; and conferring powers and imposing duties on the Governor and the Office of the Governor.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Employment First Act.

Section 2. Findings and declarations.

The General Assembly finds and declares as follows:

- (1) It is the purpose of this act to ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings.
- (2) The current work force participation rate for individuals with a disability is 20%.
- (3) Pennsylvanians with a disability are valued members of society, and all members of society deserve to have the opportunity to work.
- (4) Significant changes have occurred and are continuing to evolve with advances in effective support strategies and technology.
- (5) Each year throughout this Commonwealth, thousands of high school students with a disability who use plans developed in accordance with section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794) or qualify under the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) graduate from special education programs and are ready and able to work at competitive wages in private sector and public sector jobs.
- (6) The Commonwealth can realize a return on its significant investment in young adults with a disability who have benefited from a free and appropriate public education and other State services by adopting policies that further the goal of competitive integrated employment for individuals with a disability.

(7) Hundreds of thousands of job openings are listed every day, reflecting the challenges faced by employers in finding and keeping a dedicated work force, which could be resolved, in part, through the hiring of individuals with a disability.

(8) Recognition and furtherance of the benefits of meaningful work applies to all working individuals, including the opportunity for competitive integrated employment for individuals with a disability.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Cabinet." The Governor's Cabinet for People with Disabilities established under section 5.

"Commission." The Employment First Oversight Commission established under section 6.

"Competitive integrated employment." As defined in section 7 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 705(5)).

"Disability." As defined in governing statutes and regulations of each State agency.

"Employment First." The policy of State agencies which provides that competitive integrated employment is the first consideration and preferred outcome of publicly funded education, training, employment and related services, and long-term services and support for individuals with a disability.

"State agency." Any office, department, authority, board, multistate agency or commission of the executive branch, an independent agency or a State-affiliated entity. The term includes:

(1) The Governor's Office.

(2) The Office of Attorney General.

(3) The Department of the Auditor General.

(4) The Treasury Department.

(5) An organization established by the Constitution of Pennsylvania, a statute or an executive order which performs or is intended to perform an essential government function.

Section 4. Employment First.

(a) Policy. --It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry. Employment services and opportunities must be offered to all individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.

(b) Implementation.--State and county agencies and entities providing publicly funded education, training, employment and related services, and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability who are eligible to work under

Federal or State law shall comply with the requirements of Employment First and ensure that the requirements of Employment First are effectively implemented in agency programs and services to the extent practicable.

(c) Collaboration.--State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability shall coordinate efforts and collaborate to ensure that State programs, policies, procedures and funding support competitive integrated employment for individuals with a disability who are eligible to work under Federal or State law.

(d) Policies. --

(1) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First. Financial incentives, when allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.

(2) State agencies shall provide the designation of employment champions, consistent with the designation utilized by the Department of Human Services, to providers of service coordination, case management and authorization services funded through the State Medicaid program, including home and community-based waiver programs, who demonstrate commitment to Employment First and successfully support the placement and continued employment of individuals with a disability in competitive integrated employment. Employment champions shall be provided increased technical assistance to further support employment services. A complete list of employment champions shall be made available on the State agencies' websites.

(e) Staff. --State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability shall implement the requirements of Employment First with trained and certified staff that are in compliance with governing statutes and regulations of each State agency.

(f) Assessment. --State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability shall develop clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment. Each agency shall complete an assessment of its progress toward meeting these goals annually and ensure that the information is publicly available and posted on its publicly accessible Internet website.

(g) Progress. --State agencies are authorized to share general, nonindividualized data and information across systems in an effort to track implementation of Employment First. State agencies are encouraged to adopt measurable goals and objectives to promote the assessment of progress under this subsection.

(h) State agency compliance. --The following shall apply:

(1) State agencies shall make an effort to employ individuals with a disability in no less than 7% of the overall State work force.

(2) State agencies shall review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.

- (3) No State agency shall be required to give preference in hiring to individuals with a disability.
- (4) The Office of Administration shall develop a framework for individuals to self-report a disability.
- (5) The State Civil Service Commission shall review and consider changes in its policies and procedures in order to support progress towards the initial goal established under this subsection.

(i) Initial plan.--No later than one year after the effective date of this subsection, the Office of the Governor shall develop an initial three-year plan based upon information provided by the State agencies for implementing Employment First for submission to the General Assembly. The plan shall identify the specific policies and implementation dates for State agency compliance with this act.

(j) Annual report.--The assessment information compiled by each State and county agency and any entity providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability under subsections (f) and (g) and any other information deemed necessary shall be sent to the Governor's Office of Policy and Planning no later than October 1 of each year for consideration and inclusion in an annual report by the Office of the Governor to the General Assembly that documents continued and improved State agency compliance with this act. The report shall be submitted to the General Assembly no later than January 30 of each year.

Section 5. The Governor's Cabinet for People with Disabilities.

(a) Establishment. --The Governor shall establish the Governor's Cabinet for People with Disabilities. The Governor shall appoint the members of the cabinet.

(b) Composition. --The cabinet shall consist of the following members, who may not delegate their duties to other members, except for good cause:

- (1) Secretary of Human Services or a designee who shall be an employee of the Department of Human Services.
- (2) Secretary of Labor and Industry or a designee who shall be an employee of the Department of Labor and Industry.
- (3) Secretary of Health or a designee who shall be an employee of the Department of Health.
- (4) Secretary of Education or a designee who shall be an employee of the Department of Education.
- (5) Secretary of Transportation or a designee who shall be an employee of the Department of Transportation.
- (6) Secretary of the Budget or a designee who shall be an employee of the Office of the Budget.
- (7) Secretary of Aging or a designee who shall be an employee of the Department of Aging.
- (8) Secretary of Military and Veterans Affairs or a designee who shall be an employee of the Department of Military and Veterans Affairs.
- (9) Secretary of State or a designee who shall be an employee of the Department of State.
- (10) Secretary of Policy and Planning or a designee who shall be an employee of the Office of Policy and Planning.

(11) Secretary of Community and Economic Development or a designee who shall be an employee of the Department of Community and Economic Development.

(12) Executive Director of the Pennsylvania Human Relations Commission or a designee who shall be an employee of the Pennsylvania Human Relations Commission.

(13) Executive Director of the State Civil Service Commission or a designee who shall be an employee of the State Civil Service Commission.

(14) Executive Director of the Pennsylvania Housing Finance Agency or a designee who shall be an employee of the Pennsylvania Housing Finance Agency.

(15) Executive Director of the Pennsylvania Developmental Disabilities Council or a designee who shall be an employee of the Pennsylvania Developmental Disabilities Council.

(16) Executive Director of the Commonwealth of Pennsylvania Council on the Arts or a designee who shall be an employee of the Commonwealth of Pennsylvania Council on the Arts.

(c) Powers and duties. --The cabinet shall have the following powers and duties:

(1) To conduct:

(i) a detailed review of existing regulations, policies and procedures relating to the goal of competitive integrated employment for individuals with a disability; and

(ii) a review and alignment of service definitions, policies and payment structures within and across State agencies.

(2) To develop:

(i) recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for changes in regulations, policies and procedures necessary to ensure implementation of Employment First;

(ii) recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for the consistent collection of data and the enforceable sharing of data; and

(iii) recommendations to the Governor for legislative changes necessary to support and implement this act.

(d) Collaboration. --The cabinet shall encourage the development and adoption of agreements among local entities of the State agencies to promote collaboration among agencies at regional and local levels across this Commonwealth.

(e) Meetings. --The cabinet shall meet quarterly and shall be responsible for coordinating the development of policies designed to implement this act by each State agency providing services to an individual with a disability.

Section 6. Employment First Oversight Commission.

(a) Establishment and composition. --An independent Employment First Oversight Commission is established. The commission shall consist of the following members, at least 51% of whom must have disabilities, who shall serve for a three-year term:

(1) Four members, not under the employ of the Commonwealth, who are individuals with a disability or individuals who are knowledgeable about the employment of individuals with a disability. The following shall apply:

(i) One shall be appointed by the President pro tempore of the Senate.

(ii) One shall be appointed by the Minority Leader of the Senate.

(iii) One shall be appointed by the Speaker of the House of Representatives.

(iv) One shall be appointed by the Minority Leader of the House of Representatives.

(2) Two individuals with a disability, appointed by the Governor.

(3) Two parents or family members of individuals with a disability, appointed by the Governor.

(4) Two individuals who have successful experience in providing services and support to high school students and recent graduates with a disability, leading to competitive employment in an integrated setting, appointed by the Governor.

(5) A representative of Disabilities Rights Pennsylvania, appointed by the Governor.

(6) A representative of the Pennsylvania Rehabilitation Council, appointed by the Governor.

(7) A representative of the Pennsylvania Statewide Independent Living Council, appointed by the Governor.

(8) A representative of the Pennsylvania Client Assistance Program, appointed by the Governor.

(9) A representative of a State association of organizations that provides competitive integrated employment services, among other services, in the community for individuals with disabilities, appointed by the Governor.

(10) A representative of an organization that partners with private businesses or State agencies, or both, to deliver services that create competitive employment opportunities in the community for individuals with disabilities, appointed by the Governor.

(b) Meetings. --The Governor shall designate one member to convene and organize the first meeting of the commission at which the commission shall elect a chairperson and other officers as it deems necessary from among its members. The commission shall meet at least four times each year or at the call of the chairperson. A quorum shall consist of a majority of the members of the commission. All actions of the commission shall be taken only after approval by a majority vote of the members present after a quorum is established during a lawful meeting of the commission.

(c) Reimbursement.--Each member of the commission shall be reimbursed normal and customary travel expenses in accordance with Commonwealth travel policies for attendance at meetings of the commission.

(d) Progress. --The commission shall establish measurable goals and objectives governing the implementation of this act. The commission shall track the measurable progress of public agencies in implementing this act. All State agencies shall fully cooperate with and provide data and information to assist the commission in carrying out its duties.

(e) Annual report. --The commission shall issue an annual report on October 1 of each year, detailing the progress made on each of the measurable goals and objectives during the preceding fiscal year. The annual report shall also include recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

(f) Support. --The Office of the Governor shall ensure that reasonable staff and support are made available to the commission to carry out its duties under this section. The Office of the Governor shall also ensure that administrative costs, including money for travel expenses authorized under subsection (c) and money for the distribution of the annual report and other related administrative costs, are made available to enable the commission to carry out its duties under this section. The commission may seek the attendance and participation of members of the cabinet in meetings of the commission in order to assist the commission in carrying out its responsibilities under this section.

Section 7. Training and outreach.

All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to the following individuals about Employment First and available opportunities for participation in competitive integrated employment:

- (1) Individuals with a disability and their families.
- (2) Providers of employment services for individuals with a disability.
- (3) Education, vocational rehabilitation and human service officials responsible for services to individuals with a disability.

Section 8. Applicability.

Nothing under this act shall be interpreted to supersede or preempt Federal or State law. Nothing in this act shall be construed to change, supersede, preempt or otherwise redefine the term "age of majority" as it applies to individuals who qualify under the provisions of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) pursuant to 22 Pa. Code § 11.12 (relating to school age). This act is not intended to create and does not create a prohibition of existing employment options and opportunities or of the informed choices of individuals with a disability made through a person-centered planning process.

Section 9. Effective date.

This act shall take effect in 60 days.

B. EFOC Resolution on Supported Employment Rates

Pennsylvania Employment First Oversight Commission
Harrisburg, Pennsylvania

January 26, 2022

The Honorable Meg Snead
Pennsylvania Secretary of Human Services
3rd Floor, Health and Welfare Building
Harrisburg, Pennsylvania 17120

Dear Secretary Snead:

The following motion was approved by the PA Employment First Oversight Commission during its January 26, 2022 meeting.

*"That the rate increase proposed by the Office of Developmental Programs of less than one percent for supported employment services - specifically career assessment, job finding and development, and job coaching and support - is a disincentive, not an incentive as required by Section 4.d.1. of Act 36 of 2018, to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment and is inconsistent with Employment First policy established by the governor and legislature in Act 36 of 2018; and further, that the Employment First Oversight Commission urges the **Secretary of Human Services, Meg Snead**, to direct her staff to revisit and significantly increase rates for supported employment services before rates are finalized."*

As you know, Act 36 of 2018 establishes "Employment First" as the policy of the Commonwealth and created the Employment First Oversight Commission, the role of which is to, in part, provide recommendations to the Governor and General Assembly for effective strategies and policies needed to support the implementation of Act 36 of 2018. This motion will be submitted as a comment via the department's public comment process, but since this specifically mentioned you we wanted to be sure you received it directly. If I can answer any questions you might have, please do not hesitate to contact me.

Sincerely,



Stephen H. Suroviec
Chair, PA Employment First Oversight Commission

cc: Governor's Office
General Assembly Leadership
EFOC Commissioners

C. PA DHS Secretary Snead Response to EFOC Resolution



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

March 1, 2022

Dear Chairman Suroviev:

I am writing in response to your letter informing me of the Pennsylvania Employment First Oversight Commission's (the "Commission") approved motion regarding the Office of Developmental Programs' ("ODP") proposed supported employment services rates. As urged by the Commission, I did ask that ODP staff revisit the proposed rates for supported employment services in light of your charge of a violation of Act 36 of 2018.

The commission's motion asserts that the proposed rate increases for supported employment services are a disincentive, not an incentive as required by Section 4(d)(1) of Act 36 of 2018. The Act 36 provision you cited reads:

(1) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First. Financial incentives, when allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.

Contrary to the Commission's claim, Act 36 requires financial incentives to be granted when allowable under Federal funding rules for employment services. The Federally approved 1915(c) Home and Community-Based Services Waivers (the "Waivers") do not provide for financial incentives. Rather, in accordance with the Waivers and 55 Pa. Code § 6100.571, fee schedule rates for ODP's services are established using a market-based approach so that payments are consistent with efficiency, economy and quality of care and sufficient to enlist enough providers so that services are available to at least the extent that such services are available to the general population in the geographic area. The proposed rates to which the Commission objects were developed by the Department's actuary and followed the established process for updating the data used in the rate setting process.

Notwithstanding, it should be noted that, though not required to do so, in alignment with the objectives of Act 36, the supported employment services rates are significantly higher (almost \$25 per hour higher) than rates for prevocational services. ODP is also actively

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reviewing policies related to the payment of service providers to continue alignment with the Employment First policy identified in Act 36. As stated by Rick Smith, Fiscal Director for the ODP, during the January 26, 2022 Commission meeting, ODP will be working with a consultant toward the development and implementation of selective contracting and alternative payment methodologies. ODP is hopeful this will help to drive employment outcomes in line with Act 36.

Sincerely,

A handwritten signature in black ink, appearing to read "Meg Snead".

Meg Snead
Acting Secretary of Human Services

D. Labor Participation and Unemployment Data for People with Disabilities.

CPS 12 Month Averages for Total PA Labor Force and People with Disabilities						
Month	People with Disabilities Participation Rate	People with Disabilities Unemployment Rate	Total PA Labor Force Participation Rate	Total PA Labor Force Unemployment Rate	PA Labor Force for People without Disabilities Participation Rate	PA Labor Force for People without Disabilities Unemployment Rate
July-19	22.3	9.0	63.1	4.1	69.9	3.8
August-19	22.4	8.8	63.1	4.0	70.0	3.8
September-19	22.4	8.7	63.2	4.0	70.0	3.8
October-19	22.5	8.6	63.3	4.1	70.0	3.9
November-19	22.4	8.4	63.2	4.1	70.0	3.9
December-19	22.2	8.2	63.2	4.2	70.1	4.0
January-20	22.0	8.1	63.3	4.4	70.1	4.2
February-20	21.8	7.8	63.3	4.4	70.2	4.2
March-20	20.9	7.5	63.3	4.6	70.3	4.4
April-20	17.3	7.5	63.2	5.6	70.3	5.5
May-20	16.1	7.4	63.2	6.4	70.4	6.3
June-20	17.0	7.9	63.2	7.1	70.4	7.0
July-20	19.7	8.2	63.0	7.7	70.3	7.7
August-20	19.4	9.0	62.8	8.3	70.1	8.2
September-20	19.0	9.8	62.7	8.5	70.1	8.5

October-20	18.5	10.6	62.5	8.7	69.9	8.6
November-20	18.3	11.3	62.4	8.8	69.8	8.7
December-20	17.7	11.8	62.1	9.0	69.6	8.9
January-21	17.2	12.7	61.9	9.3	69.4	9.2
February-21	16.7	13.9	61.7	9.6	69.4	9.4
March-21	16.1	14.5	61.6	9.6	69.3	9.4
April-21	15.9	14.6	61.5	8.8	69.3	8.6
May-21	15.9	14.5	61.4	8.2	69.2	7.9
June-21	16.5	14.9	61.4	7.7	69.1	7.4
July-21	16.9	15.4	61.4	7.2	69.1	6.9
August-21	17.4	15.4	61.5	7.0	69.1	6.7
September-21	18.0	14.7	61.5	6.9	69.0	6.6
October-21	18.4	14.4	61.4	6.8	68.9	6.5
November-21	19.0	13.5	61.4	6.7	68.6	6.4
December-21	19.5	13.2	61.3	6.5	68.4	6.2
January-22	20.0	13.3	61.3	6.3	68.3	6.0
February-22	20.6	12.9	61.1	6.0	68.0	5.7
March-22	21.4	12.4	61.2	5.8	67.9	5.4
April-22	22.4	12.5	61.3	5.6	67.9	5.3

May-22	22.9	12.5	61.4	5.5	67.9	5.1
June-22	22.7	11.9	61.4	5.2	67.9	4.9
Source: Current Population Survey 12-Month Averages - Center for Workforce Information and Analysis 7-14-22						

E. State Agencies’ Assessment of Act 36 Compliance

Act 36 of 2018 – Employment First Act – Inventory of State Agency Requirements and Status (FOR EFOC REVIEW)

The below information represents general information and examples of state agency implementation of Act 36. The state does not have oversight or authority over every entity providing publicly funded education, training, employment, and related services.

Act 36 Requirement Imposed on State Government Agencies	Administration Compliance – (Is this provision being implemented and if so, how?)
Section 4(a). It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry.	<p>The preferred outcome of competitive integrated employment (CIE) is established as the official policy of the Commonwealth under Governor Wolf’s Executive Order 2016-03 and Act 36 of 2018.</p> <p>The state has an Employment First website and a data dashboard documenting the policy, implementation, and progress. The PA WIOA Combined State Plan also cites Employment First policy implementation. Many agencies and offices have materials noting Employment First policy, employment services, and reporting to document progress. Examples are available; several are indicated in this document.</p>

**Section 4(a).
(continued).
Employment services and opportunities must be offered to all individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.**

The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities incorporate employment activities into their service delivery, starting at the earliest ages and going through adulthood. Several implementation measures are available on the [data dashboard](#) while other measures are available in state reports on the [Employment First website](#) and individual agency reports.

Education and employment pathways are socialized with families with young children of disabilities through the Office of Child Development and Early Learning’s (OCDEL) [early intervention \(EI\) services](#) to create a culture of empowerment to position families to access opportunities. EI services also support children transitioning to preschool and other community services.

Employment services for K-12 students with disabilities are provided through mandatory transition planning beginning at the age of 14, or younger if determined appropriate by the student’s Individualized Education Program (IEP) team, in PA. The process may include postsecondary education, employment, and independent living. In addition, the Office of Vocational Rehabilitation (OVR) provides Pre-Employment Transition Services. The Pennsylvania Department of Education (PDE) coordinates with the Pennsylvania Training and Technical Assistance Network (PaTTAN) and Intermediate Unit Transition Consultants to provide local education agencies with [targeted, sustained professional development](#) regarding effective secondary transition practices that will reasonably enable students to meet post-secondary outcomes and engage in employment activities. The state’s [transition website](#) provides information on these services. [Act 26 reports](#) document the outcome of transition services in PA as coordinated by OVR and PDE.

Employment services are offered to Pennsylvania’s youth and adult populations as a core function of the PA Department of Labor & Industry (L&I), as indicated on the [Pennsylvania CareerLink website](#). Within L&I, OVR focuses solely on supporting people with disabilities through employment services, which can be found on the [OVR website](#). The [Employment First website](#) lists a variety of state, regional, and national resources to assist individuals in their educational and employment journey.

Employment services are offered in waiver programs serving people with autism, developmental and intellectual disabilities as part of the Everyday Lives framework, regardless of residential setting, through the Office of Development Programs (ODP) in the Department of Human Services (DHS). 55 Pa Code Ch 6100.262 requires that enrolled ODP providers “shall provide active and ongoing opportunities, information about employment options appropriate for the individual and the services necessary to seek and retain competitive integrated employment.” The Administrative Entity (AE) Operating Agreement requires each AE to develop and maintain an employment protocol that complies with the Employment First Act and that each AE ensures that CIE is the first consideration and preferred outcome for all waiver participants. Upon

	<p>enrollment to provide a waiver service, including Supports Coordination, providers must sign a standardized Provider Agreement that includes the requirement to comply with all federal and state statutes and regulations, including Act 36. ODP provides DHS leadership with reports throughout the year to evidence the implementation of employment services. Employment services are provided to waiver participants of the Community Health Choices (CHC) program within DHS’s Office of Long Term Living (OLTL), primarily serving people with physical disabilities and older Pennsylvanians. OLTL affirms that employment services are to be offered to CHC participants as a service that is detailed in the 1915(c) HCBS waiver and in Section V.FF on employment supports in the CHC Agreement. Additional information about these employment services can be found here. The three Managed Care Organizations implementing CHC are required to complete quarterly reporting on employment activities to document progress. OLTL provides DHS leadership with reports throughout the year on implementation of employment services. Employment services and connections are gradually increasing among people receiving mental health and substance abuse services programming. As of 2021, counties are now required to report on employment services in their annual reports to DHS through the Office of Mental Health and Substance Abuse Services (OMHSAS). Additional information about employment services for people with Serious Mental Illness can be found here.</p> <p><i>Area of opportunity: continue to review mental health and employment initiatives, integrated services in the PA CareerLink® system, and postsecondary education.</i></p>
<p>Section 4(b). State and county agencies and entities providing publicly funded education, training, employment and related services, and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability who are eligible to work under Federal or State law shall comply with the requirements of Employment First and ensure that the requirements of Employment First are</p>	<p>See Section 4(a), above, regarding how the state agencies under the Governor’s jurisdiction are implementing the Employment First Act. As indicated, administration and agency reporting processes are in place to document Employment First implementation progress. Examples:</p> <ul style="list-style-type: none"> • Employment First Cabinet 3-year plan and annual reports • Employment First data dashboard • Act 26 quarterly reports on transition services • CHC MCO quarterly reports • County Human Services annual reports • WIOA state plan <p><i>Area of opportunity: although the state does not have jurisdiction over every entity, the state could potentially increase communication to ensure awareness of the Act and component requirements within the Act. These efforts could include identifying specific entities, such as the PA Workforce Development Board, to review policies regarding reporting and implementation.</i></p>

<p>effectively implemented in agency programs and services to the extent practicable.</p>	
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Section 4(c). State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability shall coordinate efforts and collaborate to ensure that State programs, policies, procedures and funding support competitive integrated employment for individuals with a disability who are eligible to work under Federal or State law.

The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities regularly collaborate both formally and informally to coordinate services, policies, training, and funding that support CIE.

Examples:

There are numerous Memoranda of Understanding (MOU) in place to formally support coordination among stage agencies:

- OLTL and OVR have an MOU to enhance understanding of the employment status of CHC participants and the employment services’ effectiveness.
- ODP has two MOUs with OVR that focus on collaboration to increase employment outcomes for individuals with Intellectual Disabilities or Autism. One MOU allows ODP and OVR to exchange data on shared consumers to increase coordination of services. The other MOU allows ODP and OVR to work together to increase the financial resources available to assist individuals with intellectual disabilities and autism secure and maintain CIE and increases OVR staff access to shared consumers’ information allowing for better service coordination between systems.
- OVR and PDE’s Bureau of Special Education (BSE) have an MOU to support transition services coordination. The MOU was established in response to The Individuals with Disabilities Education Act (IDEA) and Title IV of WIOA, which both require coordination and collaboration between OVR and BSE. As a result, students with disabilities are provided with pre-employment transition services to offer seamless access to services and support to achieve their transition goals. More information can be found [here](#).
- OMHSAS is currently seeking to establish an MOU with OVR to identify an individual’s workforce training participation, employer, wage, and industry information, which will allow OMHSAS to improve insight into the population that is being served.

Joint initiatives and training:

- Community of Practice on Secondary Transition.
- Connections for Employment.
- County ID Programs/Administrative Entities collaborate on a local level as part of their employment coalitions and transition councils.
- Several agencies participated in a National Governor’s Association SEED cohort to develop initiatives pertaining to employer engagement and Commonwealth employment.
- OVR and the Office of Administration (OA) are piloting a customized employment position in the Commonwealth.
- OVR and OA partner to offer a summer internship program for students with disabilities.
- OVR partners with L&I’s Workforce team to ensure accessibility for customers with disabilities.
- PDE and OVR are collaborating with Intermediate Units to train personnel to assist with transition service provision to students 14 and up.

<p>Section 4(d)1. State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First.</p>	<p>See Section 4(a) regarding contract and reporting requirements that include employment services. In addition, the state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities continue to support education and advocacy for CIE pathways and are moving away from use of 14c licenses.</p> <p>ODP and OVR jointly contracted with nationally recognized experts to hold provider transformation leadership “boot camp” sessions that delivered training to help providers of facility-based services transform their business model to one that supports CIE.</p> <p>ODP no longer uses 14c licenses in any of its state centers.</p> <p>OMHSAS no longer uses 14c licenses in any of its state hospitals.</p> <p>OLTL is using American Rescue Plan Act (ARPA) Home and Community Based Services FMAP increase funds to issue grants to providers, including employment service providers, to increase service delivery quality.</p> <p>OVR is currently in the process of reviewing and editing its policy regarding the provision of supported employment services, with the expectation that the policy will be presented to the State Vocational Rehabilitation Board for review and approval.</p>
<p>Section 4. (d)1.(continued). Financial incentives, when allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.</p>	<p>Under Act 36 and as described in sections above, agencies’ employment services are implemented and tracked with CIE as the preferred outcome (see Section 4(d)1). Therefore, agency funding is, in general, going to providers who support CIE. Examples of <i>additional</i> financial investments include:</p> <p>DHS is offering additional grants from <u>ARPA federal Match funds</u> to increase service quality. These will be available to OLTL employment service providers among others.</p> <p>Submitted plan to Centers for Medicare and Medicaid Services also includes a rate refresh for ODP providers.</p> <p>For the past several school years, BSE administered a <u>Competitive Integrated Employment Grant</u> program for local education agencies interested in establishing or expanding effective, school-based community-based paid work experiences for youth with disabilities during the school year. The program continues this year with a focus on systematic change and capacity in transition related to educational programming in Pennsylvania.</p> <p>Note that federal funding rules may limit the provision of financial incentives. For example, federal funding rules for OVR would not allow for federal funding or OVR state match funding to be spent on anything other than Vocational Rehabilitation (VR) related expenses. Federal funding rules also require competitive contract and grant procedures when possible.</p>

<p>Section 4(d)2. State agencies shall provide the designation of employment champions, consistent with the designation utilized by the Department of Human Services, to providers of service coordination, case management and authorization services funded through the State Medicaid program, including home and community-based waiver programs, who demonstrate commitment to Employment First and successfully support the placement and continued employment of individuals with a disability in competitive integrated employment.</p>	<p>The designation of employment champions is a goal listed on the state’s Employment First 3-year plan. However, the employment champion designation has a specific use within DHS’s OLTL that may not be applicable to other offices and agencies; it is a designation internal to the CHC-MCOs for the staff focused on improving access to employment services through the service coordination provided to CHC participants. This is not a public-facing role. Participants work with Service Coordinators, and Service Coordinators interface with the Employment Providers. Publicizing the list could undermine the Service Coordinator relationship. Clarity is needed regarding what constitutes an Employment Champion if this is to be used more broadly and not conflict with current use in OLTL or cause unintended consequences.</p> <p>OVR currently does provide Supported Employment services through providers for OVR customers when it’s an appropriate goal.</p> <p><i>Area of opportunity: work to identify intention of this provision of the act and options for application to other offices and agencies.</i></p>
<p>Section 4(d)2. (continued). Employment champions shall be provided with increased technical assistance to further support employment services.</p>	<p>Technical assistance for providers related to Employment First is available in various ways. Examples:</p> <p>OLTL communicates regularly with the CHC-MCO designated employment champions on an internal listserv to provide updated information, funding opportunities, and promising practices in Employment First and supporting people with disabilities in attaining employment.</p> <p>A variety of resources for educators is available online to support educators and students with employment services. The annual PA Community of Practice Transition Conference provides multiple sessions on career development, career and technical education, summer employment, on-the-job training, apprenticeships, and Pre-Employment Transition Services for individuals with disabilities. Effective and compliant secondary transition practices also are available online.</p> <p>A Provider page is available on the Employment First website with various resources.</p> <p>See also information pertaining to section 7(b) regarding outreach to providers.</p>
<p>Section 4(d)2. (continued). A complete list of employment champions shall be</p>	<p>See above section regarding Employment Champion designation.</p>

<p>made available on the State agencies' websites</p>	
<p>Section 4(e). State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall implement the requirements of Employment First with trained and certified staff that are in compliance with governing statutes and regulations of each State agency.</p>	<p>The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities have requirements for staff who provide employment services, and continue to ensure opportunities are available for training and certification. Additional data/information on credentialed providers is available in the Employment First report. Examples: The CHC agreement requires employment service provider qualifications through APSE, ACRE and/or CRC, BC-SSA. ODP has provider qualifications that include nationally recognized training or credentials for Supported Employment, Advanced Supported Employment, Small Group Employment, Benefits Counseling, and prevocational services in Community Participation Support. OVR has 21 District Offices staffed with trained Vocational Rehabilitation Counselors. Counselors must meet minimum standards for employment found here.</p>
<p>Section 4(f). State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability shall develop clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment.</p>	<p>Data is available in multiple reports: The state’s annual report, as required by Act 36; the EFOC annual report, as required by Act 36; Act 26 on transition services; and the data dashboard. The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities also have individual reporting requirements to establish data and continued reporting. For example: OLTL has baseline data and goals by CHC-MCO for the following measures:</p> <ul style="list-style-type: none"> • Employment as goal on PCSP • Participants employed • Participants in CIE • Total Service authorizations <p>ODP collects baseline information on the following measures:</p> <ul style="list-style-type: none"> • Number and percent of working age individuals enrolled with ODP that have CIE • Authorized/utilized services <p>OMHSAS annual county planning now includes question on employment service funding to enable annual goal setting. OVR is required to track CIE for customers as part of the reporting requirements to the Rehabilitation Services Administration.</p> <p><i>Area of opportunity: review initial 3-year plan goals and annual reports to update specific goals and targets aligned with current workforce changes and trends for 2022-23 and beyond.</i></p>

<p>Section 4(f). (continued). Each agency (state and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability) shall complete an assessment of its progress toward meeting these goals annually and ensure that the information is publicly available and posted on its publicly accessible Internet website.</p>	<p>The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities regularly collect and report data. See previous responses regarding reports available.</p>
<p>Section 4(g). State agencies are authorized to share general, non-individualized data and information across systems in an effort to track implementation of Employment First.</p>	<p>Agencies share data in accordance with state and federal requirements and policies for data sharing to track implementation of Employment First while ensuring protection of individuals’ information.</p> <ul style="list-style-type: none"> • Multiple interagency MOUs support data sharing between agencies to enhance service delivery. • State agencies routinely share non-individualized data with the Employment First Oversight Commission to inform annual reports and progress towards goals for state implementation of Employment First. • State agencies provide non-individualized data updates for required reporting to the legislature, such as Act 26. • State agencies provide non-individualized data updates for the state’s annual report and the new data dashboard.
<p>Section 4(g). (continued). State agencies are encouraged to adopt measurable goals and objectives to promote the assessment of progress under this subsection.</p>	<p>Under Cabinet leadership, state agencies developed a set of goals and objectives as part of the required 3-year plan under Act 36. Agencies provide annual updates to the plan in the annual reports. The initial plan and reports can be found on the Employment First website. <i>Area of opportunity: The 3-year plan developed in 2018 as required by Act 36 should be reviewed to set updated goals and objectives reflecting 2022 and beyond.</i></p>
<p>Section 4(h)(1). State agencies shall make an effort to employ individuals with a disability in no less than</p>	<p>See annual Employment First report. Effective November 2020, job applicants can choose to self-identify as having a disability. This helps inform and assess the effectiveness of commonwealth recruitment efforts for people with a disability. Preliminary data from November 1, 2020 – June 30, 2021, tentatively indicates that 8% of applicants who completed</p>

<p>7% of the overall State work force.</p>	<p>an employment application identified as a person with a disability. OA has also added self-identification to the commonwealth’s online onboarding program, effective June 2021.</p>
<p>Section 4(h)(2). Review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.</p>	<p>OA reviews data collected through recently implemented processes to assess progress with recruiting, hiring, and promotions. See Section 4(h)(5) for additional information.</p>
<p>Section 4(h)(4). The Office of Administration shall develop a framework for individuals to self-report disability.</p>	<p>See Section 4(h)(1) regarding new methods implemented to collect data regarding the framework developed by OA for individuals to self-report a disability.</p>
<p>Section 4(h)(5). The State Civil Service Commission shall review and consider changes in policies and procedures in order to support progress towards the initial goal established under this subsection.</p>	<p>Pursuant to the Civil Service Reform Act (CSRA), OA took over the Commonwealth’s merit system recruitment and hiring operations, effective December 13, 2018. Under the CSRA, the State Civil Service Commission retained only its adjudicatory function.</p> <p>OA’s Employment First Steering Committee meets throughout the year to assess progress in hiring and retention to increase hiring and support of people with disabilities. The Bureau of Enterprise Recruitment hired a Disability Recruiter to focus on connecting with various organizations and schools to advertise open jobs and recruit job candidates with disabilities. In April 2018, OA established a website for recruiting applicants for commonwealth employment opportunities, which was reviewed by OVR to ensure accessibility. Since April 2018, open positions are posted on this website, and applicants no longer need to worry about the distinction between civil service and non-civil service when applying for positions – both application processes are the same. By having just one site to visit and simplifying the application process, it is easier for individuals to explore employment opportunities with the commonwealth. Traditional multiple-choice civil service exams have been almost completely phased-out in favor of vacancy-based hiring, which utilizes Experience and Training (E&T) exams, where applicants apply online and respond to questions intended to draw-out their work-related experience and education. This helps with accessibility by not requiring applicants to travel to distant test locations. The Bureau of Talent Acquisition has converted nearly 450 written exams to E&T exams. As part of the accommodation process, applicants who are unable to travel for an interview can be interviewed utilizing Teams or other available technology.</p> <p>OA and OVR, in collaboration with the Department of Revenue are piloting the application of customized employment concepts within state government for non-civil service positions. In addition, the summer</p>

	<p>internship program for college students with disabilities will resume in 2022.</p>
<p>Section 4(i). No later than one year after the effective date of this subsection, the Office of the Governor shall develop an initial three-year plan based upon information provided by the State agencies for implementing Employment First for submission to the General Assembly.</p>	<p>The initial 3-year plan can be found on the <u>Employment First website</u>.</p>
<p>Section 4(i).(continued). The plan shall identify the specific policies and implementation dates for State agency compliance with this act.</p>	<p>The initial 3-year plan included specific policies; annual reports also incorporated additional information regarding timelines and progress.</p>

<p>Section 4(j). The assessment information compiled by each state and county agency and any entity providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability under subsections (f) and (g) and any other information deemed necessary shall be sent to the Governor’s Office of Policy and Planning no later than October 1 of each year for consideration and inclusion in an annual report by the Office of the Governor to the General Assembly that documents continued and improved state agency compliance with this act.</p>	<p>See previous responses regarding data and reporting. The state agencies under the Governor’s jurisdiction that primarily provide or oversee publicly funded services and support to people with disabilities provide information to update the state’s annual report, as well as for measures included in the state’s publicly available data dashboard.</p> <p>L&I provides county breakdown of individuals receiving employment training or pre-employment training.</p> <p>BSE provides data for school age students with disabilities in accordance with Act 26. There are five questions asked related to services that students with disabilities receive to support CIE. BSE collects the response to those questions in July-Aug and provides it after October 1 due to the data not being in finalized form until then. BSE reports the data to OVR, and OVR reports the final data, per the data-sharing agreement between BSE and OVR.</p> <p>IDEA also requires states to develop a six-year plan to measure the state’s efforts toward meeting federally identified indicators of compliance and performance designed to improve the education of students with disabilities. Indicator 14 focuses on the secondary transition and the extent to which students are achieving transition outcomes within a year of exiting high school as stated in a student’s IEP. To meet this requirement, PDE BSE surveys local education agencies every five years using the Pennsylvania Post-School Outcome Survey.</p> <p>Under WIOA, one of the participant characteristic elements under individuals with barriers to employment is Individuals with Disabilities (including youth). The Division of Adult and Basic Education at PDE reports outcomes for that subgroup on its annual State Performance Report (SPR): Here is a link to the SPR submitted in 2019, which is publicly available: https://nrs.ed.gov/rt/pa/2019/table-spr.</p> <p>Individuals with Disabilities is under “By Employment Barrier.”</p> <p>OMHSAS county reports are collected annually in response to the annual County Block Grant plan requirements. It includes figures for individuals served in supported employment, the level of employment these individuals have and demographic information.</p>
<p>Section 4(j). (continued). The report shall be submitted to the General Assembly no later than January 30 of each year.</p>	<p>In accordance with Act 36, the 3-year plan and annual reports are submitted to the General Assembly and also posted on the Employment First website.</p>

<p>Section 5 (a) &(b). The Governor shall establish the Governor’s Cabinet for People with Disabilities. The Governor shall appoint the members of the cabinet. The cabinet shall consist of [16 specified positions]; who may not delegate their duties to other members, except for good cause.</p>	<p>The Governor’s Cabinet was established in 2018. <i>Area of opportunity: review list to confirm current members and designees.</i></p>
<p>Section 5(c)(1)(i). The cabinet shall have the following powers and duties: To conduct a detailed review of existing regulations, policies and procedures relating to the goal of competitive integrated employment for individuals with a disability</p>	<p>The Governor’s Cabinet works with agency subject matter experts to implement Employment First, identify barriers, and advance policies and procedures related to the goals of CIE. Initiatives are outlined in the annual report; progress is captured on the report and the data dashboard, in addition to individual agency reports. The Cabinet meets quarterly to discuss Employment First implementation concerns and progress.</p>
<p>Section 5(c)(1)(ii). The cabinet shall have the following powers and duties: To conduct review and alignment of service definitions, policies and payment structures within and across State agencies.</p>	<p>See section 5(c)(1)(i).</p>
<p>Section 5(c)(2)(i). The cabinet shall have the following powers and duties: To develop recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the</p>	<p>See section 5(c)(1)(i), as well as the 3 year plan and annual reports, which include recommendations.</p>

<p>Secretary of General Services for changes in regulations, policies and procedures necessary to ensure implementation of Employment First</p>	
<p>Section 5(c)(2)(ii) The cabinet shall have the following powers and duties: To develop recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for the consistent collection of data and the enforceable sharing of data</p>	<p>See section 5(c)(1)(i), as well as the 3 year plan and annual reports, which include recommendations.</p>
<p>Section 5(c)(2)(iii). The cabinet shall have the following powers and duties: To develop recommendations to the Governor for legislative changes necessary to support and implement this act.</p>	<p>See section 5(c)(1)(i), as well as the 3 year plan and annual reports, which include recommendations.</p>
<p>Section 5(d). The cabinet shall encourage the development and adoption of agreements among local entities of the State agencies to promote collaboration among agencies at regional and local levels across this Commonwealth.</p>	<p>See sections 4c and 4g pertaining to MOU development and collaboration between various agencies.</p>

<p>Section 5(e). The cabinet shall meet quarterly.</p>	<p>The Cabinet has held quarterly meetings since its establishment, with the exception of the first Covid year (2020), as attention of Cabinet members focused on mitigating the impact of the global pandemic. Staff continued Employment First work during this challenging time, and the January 2021 annual report reflects this continued work. Beginning in March 2021, the Cabinet resumed quarterly meetings.</p>
<p>Section 5(e). (continued). The cabinet shall be responsible for coordinating the development of policies designed to implement this act by each State agency providing services to an individual with a disability.</p>	<p>See section 5(c)(1)(i), as well as the 3 year plan and annual reports, which include policies and recommendations.</p>
<p>Section 6(f). The Office of the Governor shall ensure that reasonable staff and support are made available to the commission to carry out its duties; shall ensure that administrative costs, including money for travel expenses and money for the distribution of the annual report and other related administrative costs are made available to enable the commission to carry out its duties.</p>	<p>The Governor’s Office has provided staffing to the Commission to coordinate meetings, requests of agencies, and support for the annual report. Travel to in-person meetings has been coordinated and reimbursed by the state. Staff is working to refine the processes for travel expenses for in-person meetings once they resume at the direction of the Commission.</p>

<p>Section 7(a). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to individuals with a disability and their families about Employment First and available opportunities for participation in competitive integrated employment.</p>	<p>See Section 4(a) and the Employment First annual report. DHS created the We Can Work website and launched a several month campaign in 2021 as an outreach strategy to encourage exploration of work and employment services for people with disabilities. L&I also hosts the Employment First website with various resources for individuals. OCDEL provides trainings on inclusion and Early Intervention (EI) services. ODP and OCDEL continuously integrate the Charting the LifeCourse principles into service delivery systems by providing access to resources and trainings. ODP collaborates with the PA Family Network (PAFN), which includes Family Advisors across the state, and Self Advocates United as part of the Supporting Families Initiative to support this work.</p> <p>ODP has a Trainings and Communication division that established and maintains the systems that are used for outreach to all stakeholders, including individuals and families, providers, county agencies, and the public. This system includes but is not limited to: ODP listservs (email distribution groups), websites, MyODP website, DHS website, MyODP online news, Virtual Targeted Trainings, Virtual Office Hours, in-person training, handouts, manuals, and other written resources.</p> <p>PDE: PATTAN provides regular systemic training and outreach through its secondary transition and family engagement initiatives. The Pennsylvania Youth Leadership Network is a group of young adults with disabilities that promote successful post-school outcomes and opportunities in education, employment and independent living.</p> <p>OVR provides regular outreach to parents and families through Early Reach Coordinators and Vocational Rehabilitation Counselors. Using a person-centered approach, OVR provides career counseling sessions to individuals in sheltered workshops on the benefits of CIE and how to use OVR services. Data can be found on the annual Employment First report.</p> <p>OLTL: The process for updating participant Person Centered Service Plans takes place at least annually and includes discussion script for outreach to be had on potential employment goals and services.</p>
<p>Section 7(b). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to providers of employment services for individuals with a disability about Employment First and available opportunities for participation in</p>	<p>See Section 4(a) and the Employment First annual report.</p> <p>PDE: PATTAN provides regular systemic training and outreach through its secondary transition and family engagement initiatives. A recorded webinar about Employment First is posted online.</p> <p>OMHSAS: Counties are in charge of outreach and training within their county to providers who are eligible for employment</p> <p>OLTL/ODP/BSE/OVR: Staff actively participate on the leadership team for the statewide Community of Practice (CoP) on Secondary Transition, where they engage with education, OVR, and various other stakeholders. They exchange information through this network daily, at a minimum, and in turn, send appropriate information out to respective networks. They participate and lead workgroups through the CoP that develop and disseminate information that supports the unified mission of Employment First. DHS is represented on each subcommittee of the CoP including the workgroup that developed the PA Secondary Transition website as well as the planning for the annual Secondary Transition conference.</p>

<p>competitive integrated employment.</p>	<p>Dering Consulting ensures OLTL’s online Comprehensive Employment Training is up to date in support of the Employment First Legislation, the CHC Employment Innovator and most importantly competitive integrated employment. OLTL tracks participants that take their online training. Additionally, Dering does onsite training for the CHC-MCOs, SCs etc. inclusive of employment, CIE.</p>
<p>Section 7(c). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to education, VR, and human service officials responsible for services to individuals with a disability about Employment First and available opportunities for participation in competitive integrated employment</p>	<p>See section 7(b). Information and updates are also exchanged between agencies at Cabinet meetings, EFOC meeting, and interagency staff workgroups.</p>

F. Governor’s January 2022 Update and Progress Annual Report

<https://www.dli.pa.gov/Individuals/Disability-Services/employment-first/Documents/2022%20Employment%20First%20Annual%20Report%202.3.2022.pdf>

G. Commissioners Names and Biographies

Stephen Suroviec, Commission Chair, is President and Chief Executive Officer of Achieva. Before joining Achieva in January 2018, Steve held several disability-related positions in both the public and non-profit sectors, including Chief Operating Officer and Intellectual/Developmental Disabilities Division Director for the Rehabilitation and Community Providers Association, Special Advisor to the PA Secretary of Human Services (for “Employment First” policy), Deputy Secretary for Developmental Programs, Executive Director for the PA Office of Vocational Rehabilitation, Executive Director of The Arc of PA, Deputy Secretary and Policy Director at the PA Department of Health, and Director of the Erie County Department of Human Services. He was a Legislative Assistant for then-Congressman Tom Ridge from 1991 through 1994 and served on the President’s Committee for People with Intellectual Disabilities from 2006 to 2008. Steve is a veteran of the U.S. Air Force and holds a Master’s Degree in Public and International Affairs from the University of Pittsburgh.

Dale Verchick, Commission Vice Chair, has been an advocate at Disability Rights Pennsylvania since 2008, working for the rights of people with disabilities in various matters, particularly addressing barriers to employment for beneficiaries of Social Security. She also assists people with tools to achieve successful results by using self-advocacy methods. Prior to her life as an advocate, Dale was an elementary school teacher

accredited through the American Montessori Society. Dale and her family were refugees in the Persian Gulf War when they were forced to relocate to India. She is an immigrant, now US Citizen and she resides in Schuylkill County with her husband, their son Andrew and daughter Lucy who has congenital femoral deficiency and fibular hemimelia. Dale presently serves on the Board of Pennsylvania Assistive Technology Foundation. She co-authored “NRI- the Improbable Adventures of a Non-Resident Indian” which tells the story of non-resident Indians caught between countries and cultures.

Dr. Josie Badger DHCE, CRC, Commission Secretary, received her Bachelor’s degree from Geneva College in Disability Law and Advocacy, a Master’s from the University of Pittsburgh in Rehabilitation Counseling, and a Doctorate from Duquesne University in Healthcare Ethics. In 2012, Dr. Badger was crowned Ms. Wheelchair America. In 2014 Josie founded J Badger Consulting Inc. where she provides youth development and disability consulting services for organizations, on transition and leadership development. She is the National Transition Director for SPAN Parent Advocacy Network, working with RAISE and the National Healthcare Transition Center for Youth with ID/DD. She is the Campaign Manager of the United Way of Southwestern PA’s #IWantToWork Campaign, to improve the employment of people with disabilities, is the lead Field Organizer for the Family Care Act that supports paid family leave, and is the developer of TRAIL, a statewide advocacy and lobbying training program. She serves as a board member of the United Way of Southwestern Pennsylvania, The Woodlands Foundation, the Mary Grace Hospice Foundation, PA Assistive Technology Foundation, and is the Secretary of FISA and co-chair of the Grants Committee.

Mary Hartley (Inaugural Chair of the Commission) is the Executive Director of the Parent Education and Advocacy Leadership (PEAL) Center. She has led statewide policy and legislative change as well as projects supporting transition to adulthood and employment, most notably, the self-advocate managed #IWantToWork campaign at United Way of Southwestern Pennsylvania. With United Way and county leadership, she initiated and launched a successful new model of employment collaboration (now in multiple businesses), the Career Transition Project. Mary is a parent advocate who got her start volunteering with the Local Task Force on the Right to Education. She lives with her husband and two children in Pittsburgh; her son is advocating on his own behalf through transition.

Cindy Duch is the Director of Parent Advising for the PEAL Center, where she has been for 14 years. Cindy lives in Hampton Township with her husband Jim and their two sons, Andrew and Alex. Her career in advocacy began when her older son was diagnosed on the Autism Spectrum. In addition to her work at the PEAL Center, Cindy is a member of the PA Rehabilitation Council and chairs the IDEA/Transition Committee. She is the current Co-Chairperson for the Local Task Force (LTF) on the Right to Education in Allegheny County, IU 3. She believes that the LTF is one of the greatest hidden resources for parents of children with disabilities in the public school system. Cindy also served the disability community as the Co-Chairperson of the Western PA Coalition of Education Advocates and as a Peer Monitor assisting the PA Department of Education in monitoring the Special Education Departments of School Districts in Pennsylvania. She has a B.S.B.A. in Economics from Robert Morris University.

Amiris Dipuglia obtained her degree as a medical doctor in 1991 from the Pontificate Catholic University Mother and Master in the Dominican Republic. When her eldest son Alexander was diagnosed with autism, she abandoned her medical career and pursued her certification as a behavior analyst. Amiris has dedicated the past twenty years to serving children with autism and other developmental delays by providing training and consultation to staff members in educational programs as well as homebound service providers on the implementation of evidence-based interventions derived from the field of applied behavior analysis. She also provides training to family members in order to promote and facilitate collaboration as well as optimize outcomes. She is currently one of the lead consultants for the Pennsylvania Training and Technical Assistant Network (PaTTAN) Autism Initiative and serves as a parent consultant.

Richard S. Edley, PhD, is the lead executive for the Rehabilitation and Community Providers Association (RCPA) in Pennsylvania, one of the largest state trade associations in the country representing providers of mental health, drug and alcohol, intellectual and developmental disabilities, children's, brain injury, medical rehabilitation, and physical disabilities and aging services. The association includes over 350 members. His professional career began in 1988 and prior to leading the association he was President and CEO of PerformCare/Community Behavioral HealthCare Network of Pennsylvania (CBHNP), a national, full-service, behavioral health managed care organization. Most recently, Dr. Edley was named to the Board of Directors of the National Council, a Washington DC based organization representing behavioral health providers and associations throughout the country. He also is a member of the PA Medical Assistance Advisory Committee (MAAC) and numerous other state task forces. Dr. Edley's baccalaureate degree is from Boston University and he holds master's and doctorate degrees in clinical psychology from Emory University. He was an intern and post-doctoral fellow at McLean Hospital, where he held a faculty appointment at Harvard Medical School, Department of Psychiatry. Dr. Edley is a national presenter and is published in a broad variety of health care areas.

Heidi Tuszynski MS, NCC, LPC is a person with a visual disability and resides in Erie, PA with her husband and daughter. She is a Nationally Certified Counselor and a Licensed Professional Counselor and holds a Bachelor's degree in Social Work and Masters in Counseling. She has over 25 years of experience working for nonprofits in the Erie community working with grieving children, individuals who are visually impaired and blind, individuals with mental health issues, and advocating for parents and children with disabilities in the educational system. Heidi is the former Chair of the Pennsylvania Rehabilitation Council and a member of The Governor's Advisory Committee for Persons with Disabilities.

Susan Miller Tomasic graduated from Messiah (College) University with a B.S. in education. After more than a dozen years as a classroom teacher, Susan made a career change to corporate training coordination. Susan began working for the PA Statewide Independent Living Council, was later appointed by Gov. Rendell to the PA SILC board, and now serves as its chair. Susan has been an active advocate for the disability community at local, state, and national levels for more than 22 years. Susan, her husband, Frank, and their children, Jason and Leah, reside in South Hanover Township, Pennsylvania.

Susan Tachau is founder and Chief Executive Officer of Pennsylvania Assistive Technology Foundation (PATF). PATF is a Community Development Financial Institution that focuses its lending on helping individuals with disabilities finance assistive technology devices and services. PATF is also Commonwealth's Alternative Financing Program, as designated by the federal Assistive Technology Act. Susan is the co-author of several PATF publications, including *Cents and Sensibility: A Guide to Money Management and Funding Your Assistive Technology*, *A Guide to Funding Resources in Pennsylvania*. Susan serves on several Boards of Directors including National Disability Institute, National Disability Finance Coalition, and PA Statewide Independent Living Council. She received a B.A. from Colorado College, a M.A. from Rutgers University, and an honorary Doctor of Humane Letters from Colorado College. Susan and her husband are the parents of an adult son who has a disability and lives in his own home and works for The Arc of Philadelphia.

Andrew Pennington is the Deputy Director of the Pennsylvania Client Assistance Program (CAP). He is a council member of the PA Rehabilitation Council and serves on multiple Citizens Advisory Councils that meet to discuss potential barriers within the Vocational Rehabilitation Process at the district office level. He participates in the policy development process for the Office of Vocational Rehabilitation. He is an advocate for individual seeking services from the Office of Vocational Rehabilitation, Centers for Independent Living, and programs, projects and facilities funded under the Rehabilitation Act of 1973 as amended. He also provides individuals and programs training on services funded under the Act and Title 1 of the ADA throughout Pennsylvania.

State Representative Dan Miller. As the eldest child of immigrant parents, Dan was the first member of his family born in America. Having a strong appreciation of the special opportunities America offers, he has made public service part of his life. He enlisted in the Army National Guard after high school. While his military service was cut short due to injury, he found another way to engage in service. Dan was a volunteer firefighter with Mt. Lebanon Fire Department for 14 years, and also was elected as a municipal commissioner. Dan earned undergraduate degrees in education and history and a law degree from Catholic University. He was first a public defender focusing on juveniles and later was a county solicitor where he worked to make sure kids were safe in their homes and received a proper education. Dan was elected to the House of Representatives in 2013 and in 2020 he became Caucus Chair of the Democratic Caucus.

Lisa Biggica is the President/CEO of UniqueSource Products and Services, the Central Non-Profit Agency operating under Pennsylvania's preferred purchasing program, whose mission is to advance employment opportunities for Pennsylvanians with disabilities. She is also a governor-appointed Commissioner of Pennsylvania's Employment First Oversight Commission. Lisa also serves as the President of the State Use Program Association (SUPRA), providing a consolidated source of information and support for State Use Programs nationwide. Lisa is a graduate of Elizabethtown College, with a BS in Business. She also holds Project Management certifications from Villanova University.

Cheryl Bates-Harris is a Senior Disability Advocacy Specialist for the Training and Advocacy Support Center (TASC) of NDRN where she has 23 years of experience and expertise working with people with disabilities. She has an in-depth knowledge of cross disability issues and focuses on employment issues of people with disabilities, including Vocational Rehabilitation, Social Security and Return to Work (PABSS), and other work programs that impact people with disabilities, including DOL OneStops. Since the passage of Ticket to Work and Work Incentive Improvement Act she has conducted national training on TWWIA and Vocational Rehabilitation Services and has conducted extensive training on the intersection issues of the Ticket to Work with state vocational rehab services. She was appointed by President Bush to the Ticket to Work and Work Incentives Advisory panel in 2004. A prime impetus behind *Segregated and Exploited; the Failure of the DD System to Provide Meaningful Work*, she provides training and technical assistance to the protection and advocacy and Client Assistance Programs nationwide and has been an invited speaker at many national conferences.

Julia Barol is at Temple University Institute on Disabilities working on employment systems issues. She is also President of Transition Consults where her work focuses on giving people the opportunity to live and work in their community, self-directing their lives. She is President of the Pennsylvania chapter of APSE (Association of People Supporting Employment First) and has been working to advance Employment First in Pennsylvania since 2012. She serves on the national APSE Board of Directors as the Mid-Atlantic Delegate. Julia was a part of the initial cohort of the BPAOs and the roll out of the TWWIA and was certified as a benefits counselor in 2001. She has counseled many hundreds on work and its impact on benefits so that people can make informed decisions about their future. She has trained groups on work incentives, SSA benefits, and healthcare options for many years. Julia holds a Masters in Secondary Special Education and Transition from The George Washington University.

Thanks and appreciation go to the following individuals who left the Commission during the past year:

- **Zach Hicks**
- **Vince Loose**
- **Donna Partin**
- **Steve Pennington**
- **Paul Stengle**

PROGRAM YEAR 2021 VOCATIONAL REHABILITATION HIGHLIGHTS¹



53,721 individuals engaged with OVR²



13,762 new applicants



17,237 students received Pre-Employment Transition Services³



5,374 individuals placed into employment



\$15.34 average hourly wage of individuals employed



\$38.97 M estimated annual government savings⁴



\$9,116 average per-person cost of services for an employment placement



16.7 months projected time to recover investment

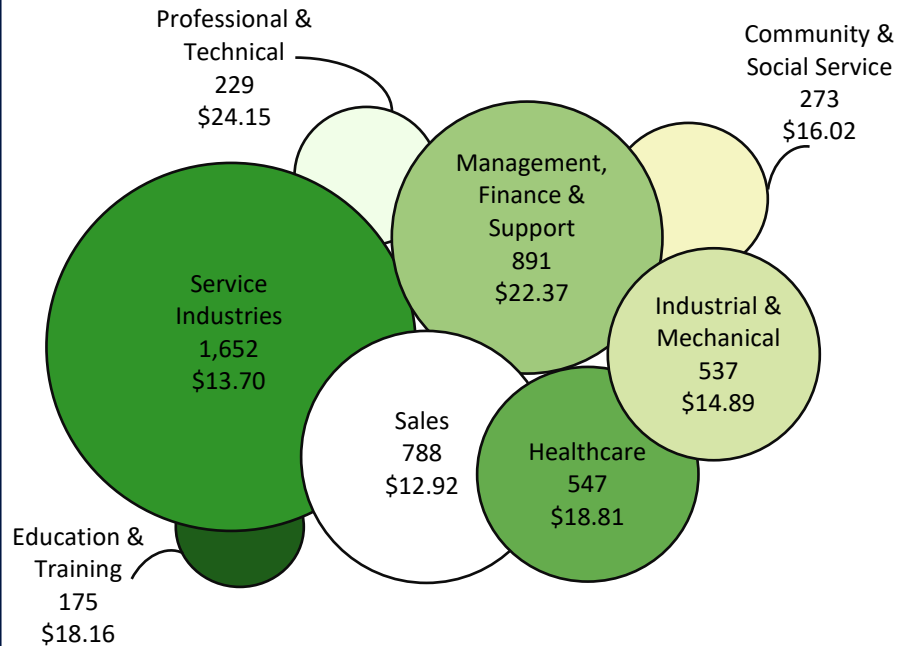


75% Hiram G. Andrews Center Employment Rate⁵



Which Occupations Do Our OVR Customers Work In?

Placements and Average Hourly Wage Per Sector



OVR Staff Attended 3,141 Individualized Education Plan Meetings.

OVR Provided \$18,363,237 in Financial Aid to 1,868 Students for Post-Secondary Training or Education.

OVR Staff Conducted 4,494 Individual Section 511 Counseling Sessions.

325 Youth Gained Paid Work Experience Through "MY Work" in the Summer of 2022.

OVR Spent 70,789 Staff Hours Providing and Arranging Pre-Employment Transition Services.

¹ Program Year (PY) 2021 began 7/1/2021 and ended 6/30/2022.

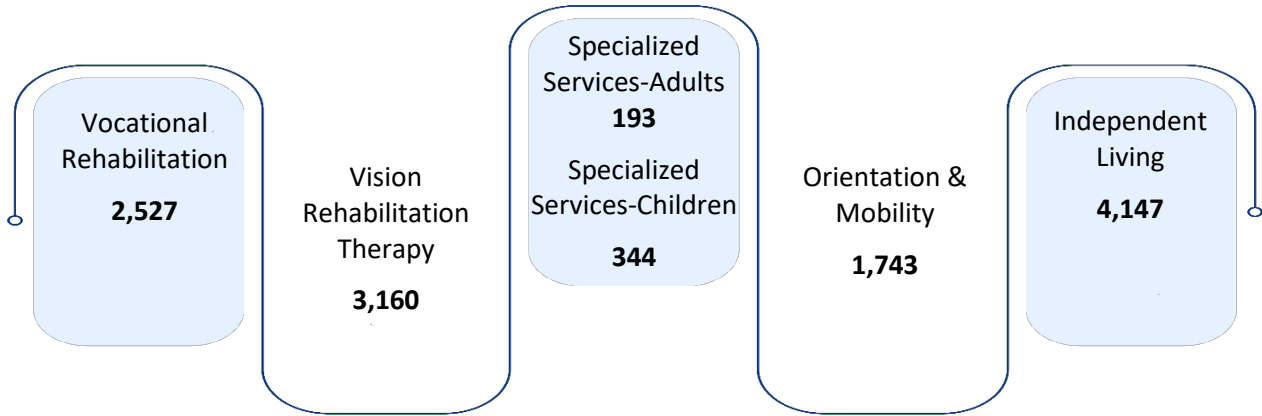
² Number of OVR customers who had an open VR case as of June 30, 2022, or had their case closed during the Program Year 2021.

³ Includes potentially eligible students and students with OVR cases, and both purchased and staff-provided services.

⁴ Based on estimated income taxes, total average annual SSA reimbursement and SSA benefits that may decrease or end due to employed individuals achieving SGA levels established by the SSA.

⁵ Six-year running average of program graduate employment.

Bureau of Blindness and Visual Services (BBVS)

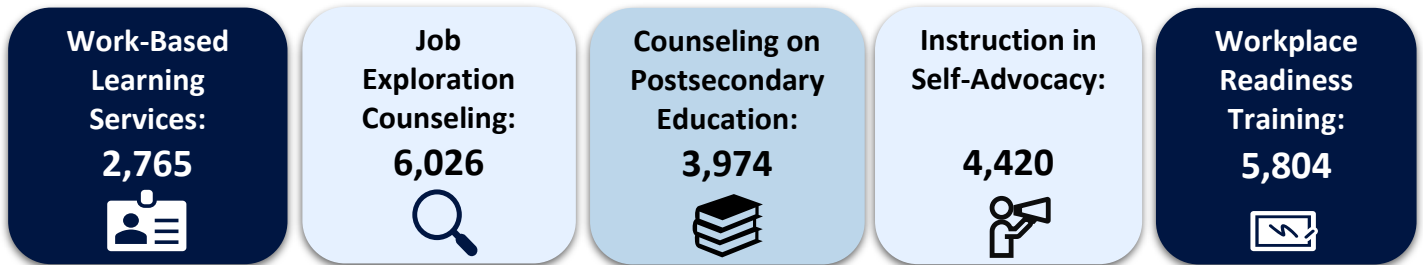


The Business Enterprise Program (BEP)

supported 19 blind vendors and monitored 315 vending and snack bar locations throughout the Commonwealth at commercial, industrial or government locations.

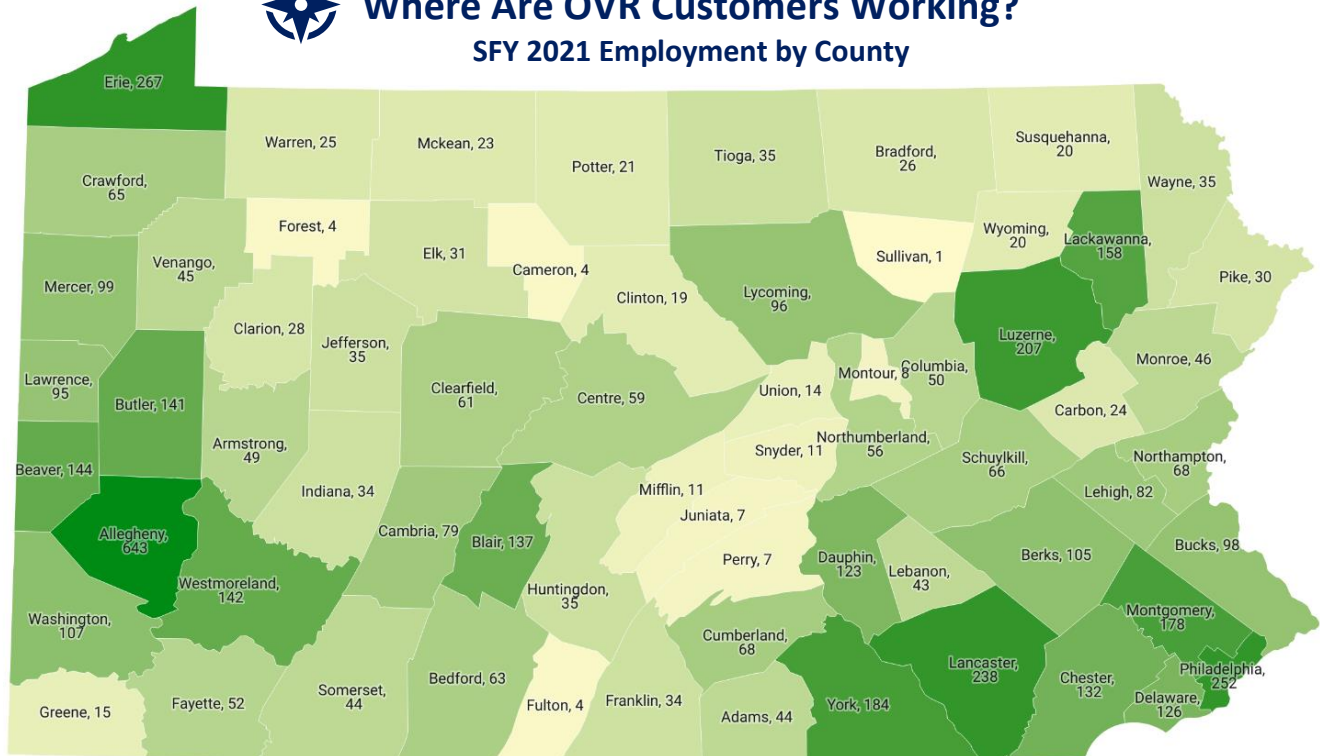


Students Who Received Pre-Employment Transition Services From OVR



Where Are OVR Customers Working?

SFY 2021 Employment by County



The 36 CFR 361 regulations implementing the Workforce Innovation and Opportunity Act (WIOA) require that the employment outcomes satisfy the following criteria under the Vocational Rehabilitation program: (1) competitive earnings, (2) integrated location and (3) opportunities for advancement.

WORKFORCE INCLUSION: STATE POLICY OPTIONS TO INCREASE EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES.

WHY SHOULD STATES ADDRESS EMPLOYMENT OF PEOPLE WITH DISABILITIES?

Within the increasingly complex global economy, building a strong, inclusive and equitable workforce is vital to an individual state's economic success. As states strive to ensure workforce inclusion, people with disabilities—including veterans with service connected disabilities—are a key part of the solution. States with strong economies translate into a strong national economy.

WHAT IS THE STATE EXCHANGE ON EMPLOYMENT AND DISABILITY (SEED)?

The U.S. Department of Labor's Office of Disability Employment Policy (ODEP) launched the State Exchange on Employment & Disability (SEED), an initiative to help state and local policymakers implement policies that effectively address barriers that may hinder employers from tapping into the skills and talents of people with disabilities.

SEED collaborates with state and local intermediary organizations to best assist states in fostering employment success for people with disabilities through meaningful policies that promote disability-inclusive workforce development, including:

- Board of Latino Legislative Leaders (BLLL)
- Council of State Governments (CSG)
- CSG West
- National Association of State Chief Administrators (NASCA)
- National Association of State Personnel Executives (NASPE)
- National Black Caucus of State Legislators (NBCSL)
- National Caucus of Native American State Legislators (NCNASL)
- National Conference of State Legislatures (NCSL)
- National Governors Association (NGA)
- National League of Cities (NLC)
- National Organization of Black Elected Legislative Women (NOBEL Women)
- Quad Caucus
- U.S. Conference of Mayors (USCM)
- Western Governors' Association (WGA)
- Women In Government (WIG)
- Women's Legislative Network (WLN)

WHAT IS THE *WORK MATTERS* POLICY FRAMEWORK?

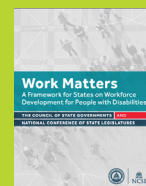
Work Matters: A Framework for States on Workforce Development for People with Disabilities offers state policymakers 13 broad policy options, as well as real-life examples of innovative programs and policies that states have successfully implemented to build strong, inclusive workforces. *Work Matters* features bi-partisan and state-driven policy options that are actionable and have broad appeal to a wide number of stakeholders, all with an exceptional degree of customizability.

Among the policy options, *Work Matters* identified stay-at-work/return-to-work (SAW/RTW) as a critical priority area. In response, SEED and CSG launched the Stay-at-Work/Return-to-Work State Policy Toolkit. This supplemental resource provides states with policy options, best practices and implementation strategies to increase retention of employees who become ill or injured while in the workforce. To access the toolkit, visit: issuu.com/csg.publications/docs/seed_report_online.

COVID-19 POLICY COLLABORATIVE FOR AN INCLUSIVE RECOVERY



In November 2020, SEED launched the COVID-19 Policy Collaborative for an Inclusive Recovery to identify ways to support state and local policymakers and other stakeholders as they respond to the pandemic. Using the information and examples gleaned from the Collaborative, SEED developed a collection of resources designed to ensure newly implemented policies align with disability and civil rights laws and policies. The resources include Frameworks for a Disability-Inclusive Recovery, as well as a simplified policy checklist for a disability-inclusive recovery. To access these resources and more, visit: dol.gov/agencies/odep/state-policy/reports-and-policy-briefs/covid-19-resources-policymakers






TO ACCESS THE *WORK MATTERS* REPORT VISIT:
[NCSL.ORG/LABOR-AND-EMPLOYMENT/WORK-MATTERS](https://ncls.org/labor-and-employment/work-matters)

DISABILITY EMPLOYMENT SNAPSHOT*

SEED | STATE EXCHANGE ON EMPLOYMENT & DISABILITY | ADVANCING POLICY FOR A MORE INCLUSIVE WORKFORCE

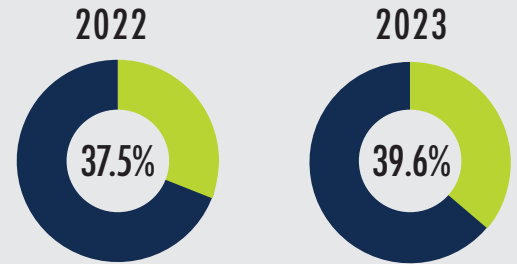
13% RATE OF PEOPLE WITH DISABILITIES IN THE U.S. POPULATION

	POPULATION WITH A DISABILITY	EMPLOYMENT RATE OF PEOPLE WITH DISABILITIES
 METROPOLITAN	12.1%	38.7%
 MICROPOLITAN	16%	34.9%
 NON-CORE	17.8%	32.5%

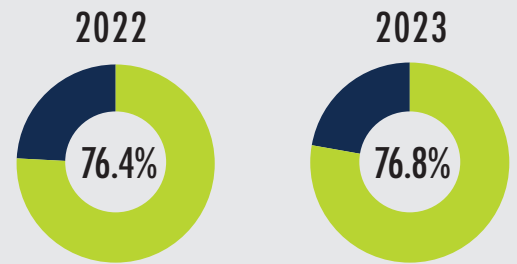
Metropolitan: counties with urban core of 50,000+ people
 Micropolitan: counties with an urban core of 10,000-50,000 people
 Non-core (most rural): counties with no urban core (< 10,000 people)

LABOR FORCE PARTICIPATION RATE

People with Disabilities



People without Disabilities



APPROXIMATE NUMBER OF ADULTS WITH A DISABILITY BY ETHNICITY AND RACE

American Indian
Alaska Native



Black



White



Native Hawaiian
Pacific Islander



Hispanic



Asian



For more information, including policy options for states to consider in addressing workforce development for people with disabilities, please refer to *Work Matters: A Framework for States on Workforce Development for People with Disabilities* and reach out to the SEED team.

SEED CONTACT:

Nadia Mossburg

Senior Policy Advisor, U.S. Department of Labor, Office of Disability Employment Policy

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*Sources: University of New Hampshire, Institute on Disability, 2023 Annual Disability Statistics Compendium, <https://disabilitycompendium.org/> and National Trends in Disability Employment – Monthly Update, January 2023, Kessler Foundation and the University of New Hampshire's Institute on Disability, <https://kesslerfoundation.org/press-release/ntide-january-2023-jobs-report-more-people-disabilities-are-striving-work-will> and Centers for Disease Control and Prevention, <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>.

STATES AS MODEL EMPLOYERS



Encouraging States to Become Model Employers of People with Disabilities

Use this policy brief to:

- Learn what it means for a state to be a “model employer” of people with disabilities.
- Explore specific best practices that states can implement in their quests to become model, disability-inclusive employers.
- Read about states that have implemented *state as model employer* policies (i.e., “Examples in Action”).
- Find content to inform policymaking, educational and outreach efforts.

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STATES AS MODEL EMPLOYERS (SAME): AN OVERVIEW

While many of the State Exchange on Employment & Disability's (SEED) efforts are geared toward encouraging private sector employers to become more disability-inclusive, state governments themselves are in a position to *lead by example* by becoming model public-sector employers of people with disabilities. After all, state and local governments are usually among the largest employers in their regions, so they have a significant role to play in advancing the recruitment, hiring, retention and advancement of people with disabilities through their own employment policies.

This policy brief identifies examples of State as a Model Employer (SAME) practices, as well as examples of actual SAME policies adopted by state policymakers. These include policies featured in SEED's [Work Matters: A Framework for States on Workforce Development for People with Disabilities](#), as well as numerous more recent policy examples. The brief also includes links to resources that can inform policymakers' efforts to make their state a model employer of people with disabilities.

BECOMING A MODEL EMPLOYER: SAME POLICY RECOMMENDATIONS

Several resources outline the exemplary recruitment, hiring and retention practices that can bolster a state's status as a model, disability-inclusive employer. For example, the National Conference of State Legislatures (NCSL) has developed the following tools and resources for state legislators:

- [Disability Employment State Statute and Legislation Scan](#)
- [Disability Employment Database](#)
- [NCSL LegisBrief – State Policy Options for Employing People with Disabilities](#)

State governments...are in a position to lead by example by becoming model public-sector employers of people with disabilities.

The Employer Assistance and Resource Network on Disability Inclusion (EARN) explores successful policies, practices and strategies for increasing the number of people with disabilities employed by state government. EARN's website includes a page devoted to [state employment](#) of people with disabilities. For more information about States as Model Employers, read EARN's "[A Joint Resolution or Executive Order to Encourage States to be Model Employers of People with Disabilities](#)," a how-to guide for state governments interested in implementing initiatives to increase the employment of people with disabilities. Further, the U.S. Department of Labor's Office of Disability Employment Policy provides [policy assistance to state and local policymakers](#) interested in celebrating National Disability Employment Awareness Month.

This guidance, and the guidance featured in [Work Matters](#), points to several common policy recommendations for states, including the adoption of the following:

- Formal mechanisms (legislation, executive orders);
- Infrastructure (cabinet positions, Task Forces, working groups, advisory committees);
- Comprehensive government-wide strategic plans;
- Diversity and inclusion initiatives (affirmative/positive action);
- Fast-track and other hiring systems to facilitate employment;
- Advancement and retention policies and procedures (reasonable accommodation policies and procedures, centralized accommodation program, telework and stay-at-work and return-to-work policies);
- Accessibility of websites, online systems, mobile apps and other forms of information and communication technology;
- Personal Assistance Services; and
- Disability awareness training of state personnel.

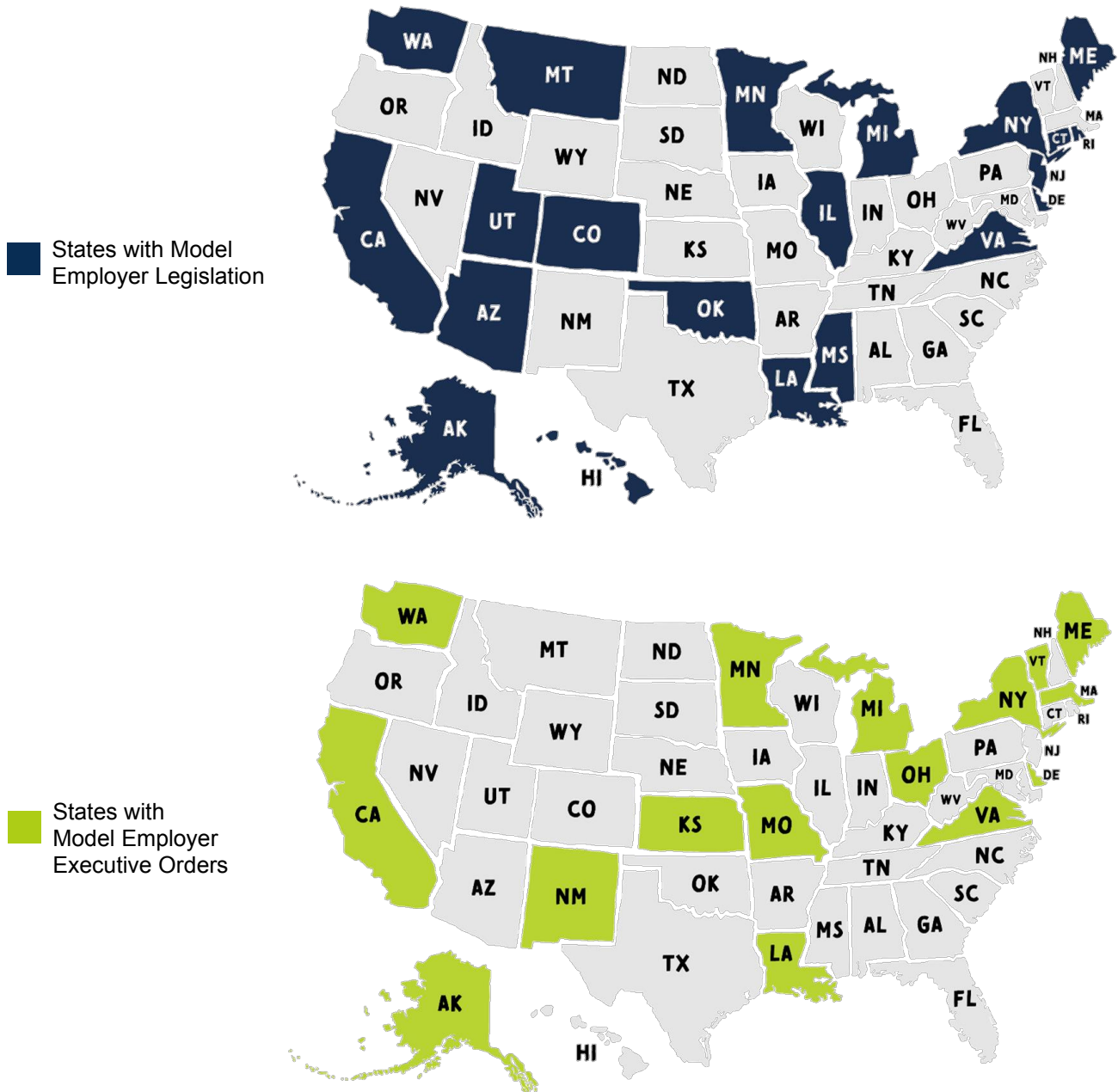
The remainder of this policy brief explores these policy options and highlights examples of states that have put them into practice.

FORMAL MECHANISMS—LEGISLATION AND EXECUTIVE ORDERS

State policymakers may want to consider adopting formal mechanisms (such as executive orders and/or legislation) that commit states to be model employers of people with disabilities.



EXAMPLES IN ACTION: Formal Mechanisms



INFRASTRUCTURES

State policymakers may want to consider creating infrastructures to maximize the likelihood that employment-related and other issues affecting people with disabilities are addressed by government agencies at the earliest stages of policy development, design, implementation and evaluation. By enhancing current state organizational structures through the use of champions for those with disabilities, states can increase the likelihood that disability-specific considerations are incorporated into the policymaking and implementation process from the start. As outlined in *Work Matters*, states have used a variety of strategies to achieve this end, including:

- Cabinet-level positions;
- Interagency working groups;
- Advisory committees;
- Offices; and
- Coordinators.



EXAMPLES IN ACTION: Infrastructures

Cabinet-Level Positions and State Agencies

State policymakers may want to consider creating a cabinet-level position to act as a champion for people with disabilities.

In **Maryland**, there is a [cabinet-level position](#) tasked with designing, implementing and evaluating policy relating to people with disabilities. The Secretary of Disabilities, as head of the Maryland Department of Disabilities, sits on numerous advisory councils and Task Forces related to disability issues. The department also provides information and referrals to Maryland citizens with disabilities, evaluates relevant state programs and consults with (at least quarterly) and advises the [Maryland Commission on Disability](#).

In **Ohio**, the legislature has established the [Opportunities for Ohioans with Disabilities Agency](#). The [agency](#) is the designated state unit authorized under title I of the Rehabilitation Act (VR agency) and is responsible for programs serving people with disabilities. The agency also consults with and advises other state agencies and coordinates programs for eligible individuals with disabilities.

Interagency Task Forces, Working Groups, Advisory Committees, Offices and Coordinators

State policymakers may want to consider creating **Task Forces, interagency workgroups, advisory committees, offices or coordinators** to reinforce and assess efforts.

Alaska Governor Parnell issued an executive order creating a [State as Model Employer Task Force](#) (2021) within the Governor's Council on Disabilities and Special Education. The Task Force was charged with reviewing best practices and developing strategies to create an inclusive work environment in state government. The Task Force consisted of members from various state agencies, including members from the Governor's Council on Disabilities and Special Education, the State Division of Personnel and Labor Relations, the State ADA Coordinator's office and the State Division of Vocational Rehabilitation.

In **California**, [AB 925](#) (2001) requires the state Health and Human Services Agency and the Labor and Workforce Development Agency to use existing resources to create a sustainable, comprehensive strategy to accomplish various goals aimed at bringing persons with disabilities into employment. The bill requires the "California Governor's Committee on Employment of People with Disabilities" be established in the Labor and Workforce Development Agency, and requires the committee to make grants to counties and local workforce investment boards in order to develop local strategies for enhancing employment

ADVANCING DISABILITY-INCLUSIVE EMPLOYMENT POLICY

opportunities for people with disabilities and to fund comprehensive local and regional benefits planning and outreach programs to assist persons with disabilities in removing barriers to work.

Colorado enacted [SB 163](#) (2022) to create the statewide equity office in the Department of Personnel and Administration. Responsibilities include providing best practices and coordinating multi-agency initiatives to ensure fully accessible buildings.

Connecticut enacted [HB 7093](#) (2019) to establish a Task Force to increase employment opportunities for persons with disabilities.

The **Illinois** General Assembly enacted [HB 2782](#) (2017), which created the [Employment and Economic Opportunity for Persons with Disabilities Task Force](#) and authorized the Task Force to administer the state Employment First initiatives and analyze state programs and policies to determine what changes may be necessary to remove barriers to competitive employment and economic opportunity for persons with disabilities.

In **Illinois**, the Governor issued [Executive Order No. 2021-16](#) (2021) establishing the Office of Equity within the Office of the Governor. The Chief Equity Officer is responsible for leading efforts to ensure that the State of Illinois is a leader in equity and inclusion with the goals of eliminating institutional and systemic barriers for the people of Illinois and creating opportunity and access for all of those it serves and employs.

Kentucky Governor Bevin established the [Kentucky Work Matters Task Force](#) (2018).

Governor Edwards of **Louisiana** issued [Executive Order JBE 18-08: State as a Model Employer](#) (2018). The executive order establishes the State as a Model Employer Task Force. **Louisiana** also enacted [HB 446](#), which was signed by the Governor on June 4, 2021, creates and provides for the office of the state ADA coordinator.

Massachusetts Governor Patrick signed [Executive Order 478](#) (2007), which was revoked and superseded by [Executive Order 592](#) (2020), reaffirming the executive branch's commitment to the principles of nondiscrimination, equal opportunity and diversity for hiring and employment. Massachusetts strengthened the executive order by requiring that hiring goals be incorporated in employment guidelines for the executive branch and ensured follow through by creating the [Massachusetts Office on Disability](#).

Massachusetts also enacted [SB 2963](#) (2020), which establishes a permanent commission on the status of persons with disabilities.

Nevada enacted [SB 222](#) (2021), which requires a state agency to designate a diversity and inclusion liaison within the office of Minority Health and Equity in the Department of Health and Human Services to facilitate meetings between diversity and inclusion liaisons and minority groups. Minority is defined as including individuals with disabilities. **Nevada** also enacted [AB 96](#) (2021), creating the Emergency Response Employees Mental Health Commission; prescribing the duties of the Commission relating to emergency response employees who are experiencing mental health issues as a result of the nature of their work.

New Jersey updated 2020 legislation by approving [A 1597/S 1937](#) (2021), establishing a Task Force to Promote Employment by State Agencies of People with Disabilities. The purposes of the Task Force include studying the problem of unemployment and underemployment among individuals in New Jersey with disabilities; reviewing existing programs in New Jersey, other states and private sector companies to recruit and retain in employment individuals with intellectual and developmental disabilities; and assisting in the identification and implementation of strategies to expand efforts of New Jersey State agencies to recruit and retain individuals with disabilities in employment, including by providing guidance and support to agencies and institutions of higher education.

In **New Jersey**, the Governor also issued [Executive Order No. 265](#) (2021), creating the Office of Diversity, Equity, Inclusion, and Belonging in the Governor's Office. The Office is responsible for coordinating the policymaking processes of state agencies with respect to strengthening diversity, equity, inclusion and belonging among those employed by the state; coordinating advice to the Governor on these matters; ensuring that policy decisions and programs impacting diversity, equity, inclusion and belonging are consistent with the Governor's goals and that those goals are being effectively pursued; and monitoring implementation of the Governor's policies concerning diversity, equity, inclusion and belonging.

ADVANCING DISABILITY-INCLUSIVE EMPLOYMENT POLICY

In **New Mexico**, the [Governor's Commission on Disability](#) “serves as a liaison and advisor to the governor and legislature on disability issues.” The commission is comprised of statutory and appointed members and is supported by staff members.

New York enacted [A 3130](#) (2022), which establishes the Office of the Advocate for People with Disabilities to advocate on behalf of persons with disabilities and assure that persons with disabilities are afforded the opportunity to exercise all of the rights and responsibilities afforded to citizens of the state of New York.

New York enacted [B 2871](#) (2022), which proposes to establish the Joint Legislative Task Force on Diversity, Equity, Inclusion and Tolerance, and provides for such Task Force's powers and duties.

In **Pennsylvania**, the [Governor's Cabinet and Advisory Committee for People with Disabilities'](#) responsibilities include making suggestions to the governor on policies, procedures, regulations and legislation that help people with disabilities in Pennsylvania.

Tennessee enacted [SB 100/HB 112](#) (2021), which creates the state as a model employer program to ensure that state agencies and departments design and proactively implement best, promising and emerging policies, practices and procedures related to the recruitment, hiring, advancement and retention of qualified individuals with disabilities.

Governor Northam of **Virginia** issued [Executive Order 47: Expanding Opportunities for Virginians with Disabilities](#) (2020) that directs the Director of Diversity, Equity, and Inclusion to provide leadership and coordinate across departments and agencies to increase employment of individuals with disabilities within state government. In addition, Virginia [HB 1098](#) (2020) requires the designation of senior-level staff within each state agency to be responsible for increasing the employment of individuals with disabilities within their state agency.

Washington Governor Inslee issued an [executive order](#) (2013) directing the Office of Financial Management to convene a Task Force for the purpose of assisting state agencies with recruitment and retention of persons with disabilities. The Task Force provided: (1) recommendations on how to achieve the employment targets established in the executive order; and (2) guidance and other support to agencies and institutions of higher education on recruitment, retention, accommodations and accessibility for people with disabilities. The Task Force engaged model private-sector companies to share strategies, exchange best practices and provide technical assistance to boost the employment of people with disabilities in all sectors.

Similarly, **Washington** [HB 1783](#) (2020) established the Office of Equity, which shall assist state agencies in applying an equity lens in all aspects of agency decision making, including policy development.

In February 2021, Governor Jay Inslee issued [Executive Order 21-01: Affirming Washington State Business Resource Groups](#), including the Disability Inclusion Network and directed state agencies to provide appropriate and reasonable resources to BRGs so that the groups may carry out the purposes of this order. This includes reasonable accommodations for employees with disabilities to attend meetings and events during work time and, as necessary and available, office supplies, distribution capabilities, meeting spaces and facilities, reasonable storage space for promotional materials and teleconferencing technologies for the BRGs' work.

Making Legislature Accessible

Connecticut enacted [SB 126](#) (2022), an act requiring a study of the accessibility of the state capitol building, legislative office building and related facilities.

Illinois enacted [SB 180](#) (2022), which provides that the General Assembly shall make all efforts to increase the accessibility of the General Assembly for people with disabilities, and provides that the Speaker of the House of Representatives and the President of the Senate shall each appoint an accessibility coordinator who, in consultation with the Architect of the Capitol, shall be responsible for addressing accessibility needs for his or her corresponding house.

STRATEGIC PLANS

State policymakers may also want to consider adopting comprehensive, government-wide strategic plans to guide SAME efforts. Such plans should include reporting to leadership on a regular basis.



EXAMPLES IN ACTION: Strategic Plans

Several states have adopted policies supporting the development of strategic plans for state employment of people with disabilities.

California [Government Code 12803.6](#) requires the Labor and Workforce Development and Health and Human Services agencies to coordinate in developing a comprehensive strategy to meet the employment needs of individuals with disabilities, including ensuring that California is a model employer. [Section 12803.65 of the California Government Code](#) requires the Governor's Committee on Employing People with Disabilities to serve in a consulting and advisory role in the development of this comprehensive strategy on disability employment.

Colorado Governor Jared Polis issued [Executive Order 2020-175](#) (2020) directing the Department of Personnel and Administration to lead state action on equity, diversity and inclusion for the State of Colorado and to develop an EDI Universal Policy to guide and direct state agencies in creating long-term strategic plans with the goal of developing inclusive, anti-discriminatory workplace cultures and implementing equitable hiring, compensation and retention practices.

Florida enacted [HB 7003](#) (2016), which requires each executive agency to develop a plan regarding the employment of individuals who have a disability by a specified date.

Governor Edwards of **Louisiana** issued [Executive Order JBE 18-08: State as a Model Employer](#) (2018). The executive order establishes the State as a Model Employer Task Force and directed the Task Force to establish a five-year plan with annual goals.

Louisiana enacted [HB 143](#) (2022), which provides for the development and implementation by state agencies of policies, training and reporting relative to compliance with the requirements of the Americans with Disabilities Act.

The **Massachusetts** Disability Taskforce on Employment published a [strategic plan](#) (2009) that is entirely devoted to implementing state-as-model-employer policy. Elements of the plan include, but are not limited to, increased recruitment efforts, expanded state agency internship opportunities, streamlined reasonable accommodation processes, use of universal design principles in the workplace and disability awareness training for state personnel.

New Jersey enacted [A 5296](#) (2022), which specifies that the Division of Equal Employment Opportunity and Affirmative Action shall, in consultation with the Civil Service Commission, develop a State as a Model Employer of People with Disabilities program, which shall be implemented by each state agency. The purpose of the SAME program shall be to: increase awareness of employment opportunities for persons with disabilities; provide appropriate avenues and remove barriers to the application and hiring process; and create mechanisms to increase advancement and retention rates for persons with disabilities employed in the state workforce. Each state agency shall provide sufficient and qualified staff and sufficient resources and funding for the SAME program, including, as appropriate, the appointment of a disability program manager, selective placement program coordinator and stay-at-work and return-to-work coordinator.

Governor DeWine of **Ohio** issued [Executive Order 2019-03D: Establishing Ohio as a Disability Inclusion State and Model Employer of Individuals with Disabilities](#) (2019), directing all state agencies to collect and evaluate self-disclosed data through the state personnel system to be used to measure progress in hiring people with disabilities. This data will be used to develop a strategic plan.

Tennessee enacted [SB 100](#) (companion bill [HB 112](#)) in 2021, which creates the state as a model employer program to ensure that state agencies design and proactively implement best, promising and emerging policies, practices and procedures related to recruitment, hiring, advancement and retention of qualified individuals with disabilities. This includes the development of voluntary self-evaluation and other standard forms and templates for the submission and tracking of evaluation reports.

Virginia enacted [HB 1098](#) (2020), which requires each state agency to submit a plan each July 1 to increase employment opportunities for individuals with disabilities at the agency. The Secretary shall establish guidelines regarding the development and content of state agency plans and establish a

reporting system for tracking and reporting the progress of state agencies toward meeting the employment goals of the Commonwealth established by this section. All state agencies shall examine existing policies relating to the employment of individuals with disabilities, including a review of recruitment efforts, interviewing criteria, testing procedures and resources to accommodate applicants and workers with disabilities. **Virginia** enacted [HB 1993](#) (March 2021), which requires state agencies to establish and maintain a comprehensive diversity, equity and inclusion strategic plan in coordination with the Governor's Director of Diversity, Equity, and Inclusion.

In February 2021, **Washington** Governor Jay Inslee issued [Executive Order 21-01: Affirming Washington State Business Resource Groups](#), including the Disability Inclusion Network and directed state agencies to provide appropriate and reasonable resources to BRGs so that the groups may carry out the purposes of this order. This includes reasonable accommodations for employees with disabilities to attend meetings and events during work time and providing accessible meetings, publications, websites, trainings, events and safety planning for people with disabilities, in compliance with state and federal law. The mission of each BRG includes promoting state government as an employer of choice that is committed to diversity, equity and inclusion in its workforce by improving outreach and the level of engagement of current employees.

DIVERSITY, EQUITY AND INCLUSION (AFFIRMATIVE/POSITIVE ACTION)

State policymakers may want to consider extending diversity and inclusion initiatives (e.g., affirmative action), making them applicable to state agencies and departments. These efforts may include:

- Adopting hiring goals and preferences;
- Developing employee self-identification policies; and
- Implementing annual reporting mechanisms and surveys.



EXAMPLES IN ACTION: Diversity and Inclusion (Affirmative Action)

Hiring Goals and Affirmative Action Plans

Several states have adopted hiring goals for people with disabilities.

Connecticut [Public Act No 13-225](#) (2013) specifies that all departments and agencies of state government are mandated to establish, as part of their affirmative action plans, specific annual goals and timetables on (1) the number of jobs that are to be filled through the accommodation of persons with disabilities, and (2) entry-level training for such persons. In addition, under the supervision of the commissioner of administrative services, each department and agency of state government must establish an effective program of accommodation and entry-level training of persons with disabilities. Under the law, such programs must be part of required departmental and agency affirmative action programs. All departments and agencies also are required make a range of training opportunities available to such persons.

Illinois requires that state agencies' [affirmative action plans](#) must include a numerical hiring goal for the employment of qualified persons with disabilities in the agency based on the proportion of people with work disabilities in the Illinois labor force and a detailed status report indicating, by each position in state service, the number, percentage and average salary of individuals employed by, among other things, disability.

In 2021, **Illinois** enacted [HB 3914](#), which provides that each state agency and employer shall take positive action when it reasonably believes such action is necessary to rectify discrimination or a disadvantage towards persons having a protected characteristic (marginalized individuals, including people with disabilities). The bill also allows for favorable consideration in the process of recruitment or promotion for persons having a protected characteristic and requires each state agency to take positive action and implement strategies and programs to eliminate and prevent any disparities created by discriminatory administrative rules, policies and procedures.

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In **Iowa**, all executive branch employees are required to read the state's [Equal Opportunity, Affirmative Action, and Anti-Discrimination Policy](#) (last revised 2018), and are expected to sign an acknowledgment indicating that the policy was read and fully understood by the employee.

Massachusetts Governor Patrick signed [Executive Order 478](#) (now [Executive Order 526](#)) (2007), reaffirming the executive branch's commitment to the principles of nondiscrimination, equal opportunity and diversity for hiring and employment. Massachusetts strengthened the executive order by requiring that hiring goals be incorporated in employment guidelines for the executive branch and ensured follow through by creating the [Massachusetts Office on Disability](#).

Minnesota Governor Dayton's [Executive Order 14-14](#) (2014) requires agencies to increase the hiring of employees with disabilities by 7 percent by August 2018, stating that "the percentage of state employees self-identified as having a disability declined from approximately 10 percent in 1999 to less than 4 percent in 2013" and citing accordance with the statewide affirmative action program as required by Minnesota statutes, Section 43A.19. The order requires the development of a model for recruitment and hiring strategies to include training programs for hiring managers and clear benchmarks to ensure implementation.

Nevada enacted [AB 365](#) (2021), declaring the policy of the state that persons employed by the state be afforded respect, dignity and equity in the workplace; requiring the Departments of the State Government to prepare and submit a report concerning equity in the workplace annually; requiring the Administrator of the Division of Human Resource Management of the Department of Administration to evaluate annually the effectiveness of any policy intended to encourage equity in the workforce and prepare and submit a report concerning the evaluation; requiring certain regulations adopted by the Personnel Commission of the Division to include requirements for the training of supervisors and managerial employees concerning implicit bias; and providing other matters properly relating thereto.

New Jersey [Revised Statutes 11A:7-3](#) states each state agency shall establish goals for minorities, women and persons with disabilities that are reasonably related to their population in the relevant surrounding labor market.

Oregon [Affirmative Action/Diversity and Inclusion Plan Requirements](#) specifies that each state agency is required to develop and submit its Affirmative Action Plan to the Governor's Office of Diversity & Inclusion/Affirmative Action.

Vermont Governor Dean issued [Executive Order 3-43 \(No. 09-02\)](#) establishing the 2002 Governor's Workforce and Equity Diversity Council, which was charged with advising the Commissioner of Personnel and the Secretary of Administration on the development and implementation of the state's affirmative action program. The council was also responsible for ongoing coordination of efforts, monitoring of activities against goals and objectives and compliance with state and federal mandates.

Washington Governor Inslee, recognizing that state government is one of the largest employers in the state, issued an [executive order](#) (2013) setting the goal that by June 30, 2017, 5 percent of the state's workforce will be people with disabilities. Under the order, each cabinet-level agency must develop an annual employment plan to address the underrepresentation of people with disabilities in their agency and report progress.

Governor Beshear of **Kentucky** issued [Executive Order 2020-554: Relating to Equal Employment Opportunities and Non-discrimination in Employment, Services, and Contracting](#), which reaffirms the commitment to equal employment opportunity for state employees.

Governor Edwards of **Louisiana** issued [Executive Order JBE 18-08: State as a Model Employer](#) (2018). The executive order establishes the State as a Model Employer Task Force, whose duties include establishing a five-year plan with annual goals that will enable the state workforce to reach parity with the percentage of working-age-people with disabilities in Louisiana.

Governor Walz of **Minnesota** issued Executive Order [19-15: Providing for Increased State Employment of Individuals with Disabilities](#) (2019) that order best efforts to comply with affirmative action goals and achieve a goal of 10 percent of employment of people with disabilities in the executive branch.

Governor Parsons of **Missouri** issued [Executive Order 19-16](#) (2019) directing the state to make best efforts to eliminate the disparity in the percentage of individuals with disabilities of working age in the

population and the percentage of employees with disabilities in the state workforce and set annual goals for continuing to increase the percentage of individuals with disabilities in the state workforce.

New Jersey enacted [AB 5631](#) (2020), which requires that the director of each division ensure that the affirmative action and equal employment goals of each state agency for minorities, women and persons with disabilities shall be reasonably related to their population in the relevant surrounding labor market areas.

Virginia enacted [SB 1530 \(HB 2425 identical\)](#) (2017), which established a goal to increase by five percent the level of individuals with disabilities employed by state government by fiscal year 2023. In 2020, **Virginia** enacted [HB 1098](#) (2020), which updates state policy to promote and increase the employment of individuals with disabilities directly employed at all levels and occupations by state agencies, institutions, boards and authorities of the Commonwealth. To assist in achieving this policy, it shall be the goal of the Commonwealth to increase by five percent the level of employment of individuals with disabilities by the state by fiscal year 2023.

Surveys, Studies, Reporting Mechanisms and Data Collection

A number of states use surveys and reporting mechanisms to measure progress in hiring people with disabilities.

The **Alaska** Governor's Council on Disabilities and Special Education conducted a [survey of state workers in 2011](#) in order to continue to monitor the representation of employees with disabilities in Alaska state government and solicit recommendations for improvement. Survey findings revealed important information on the state's efforts related to increasing the employment of persons with disabilities, including that they are, in fact, appropriately represented in the state's workforce. Recommendations offered by the council include increasing training on the ADA for managers and supervisors, increasing flexibility through variable work schedules and job-sharing opportunities, improving workplace accessibility, developing targeted recruitment and retention programs for individuals with disabilities and offering health and wellness benefits and programs. In addition, in 2019, **Alaska** completed a new survey of employers regarding the employment of people with disabilities: [Alaskan Employer Perspectives on Hiring Individuals with Disabilities Summary Report 2019](#).

Florida enacted [HB 7003](#) (2016), which modified the state's equal employment policy to provide enhanced executive branch agency employment opportunities for individuals who have a disability. The legislation provides for the compilation of data regarding hiring practices of individuals with disabilities and makes such data available on its website.

The **Illinois** departments of Human Rights, Human Services and Central Management Services and the Interagency Committee on Employees with Disabilities and other state agencies conduct an [ongoing online work disability survey](#). The survey gives employees with disabilities an opportunity to self-identify and determine if emergency evacuation assistance may be necessary.

Kansas Governor Parkinson signed [Executive Order 10-10](#) (2010), requiring the collection of baseline data on people with disabilities followed by annual reporting on the numbers of people employed and their fiscal impact on the state.

In **Maine**, a [2006 Executive Order](#) signed by Governor Baldacci requires a survey of employees to better understand the prevalence of employees with disabilities in state government.

In an effort to collect better baseline data on current employees with disabilities, **Massachusetts** surveyed participants regarding self-identification, disclosure and reasonable accommodation, the employment pipeline and agency culture. (See page 17.)

In order to increase state government employment of people with disabilities, **Minnesota** Governor Dayton's [Executive Order 14-14](#) (2014) requires state agencies to submit an affirmative action plan with: a policy statement; assignment of affirmative action/equal employment opportunity responsibilities, including a workforce analysis, goals, objectives and timetable for completion; and measures to facilitate implementation and development of internal audit and reporting systems. Technical assistance is provided to each state agency to develop the plans.

Governor Parsons of **Missouri** issued [Executive Order 19-16](#) (2019) directing the Office of Administration, on an annual basis, collect data based on voluntary self-disclosure, report initial baseline

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numbers of state employees with disabilities and report and evaluate the state's progress in increasing the percentage of employees with disabilities in the state workforce.

Governor Walz of **Minnesota** issued Executive Order [19-15: Providing for Increased State Employment of Individuals with Disabilities](#) (2019) that orders best efforts to comply with affirmative action goals and achieve a goal of 10 percent of employment of people with disabilities in the executive branch and implement a system for reporting quarterly to the Governor on the progress of hiring individuals with disabilities for the executive branch. The executive order also directed the applicable state agency to compile and post on its website enterprise-wide statistics on the hiring and turnover of individuals with disabilities.

Nevada enacted [AB 365](#) (2021), which requires the departments of the state government to prepare and submit an annual report concerning equity in the workplace.

New York enacted [S 06276](#) (2021), which requires the president of the civil service commission to conduct a study on the employment of persons and veterans with disabilities by the state and make recommendations as to whether the state needs to hire more persons and veterans with disabilities to fill the positions created by sections 55-b and 55-c of the civil service law.

Governor DeWine of **Ohio** issued [Executive Order 2019-03D: Establishing Ohio as a Disability Inclusion State and Model Employer of Individuals with Disabilities](#) (2019) directing all state agencies to collect and evaluate self-disclosed data through the state personnel system to be used to measure progress in hiring people with disabilities. This data will be used to develop a strategic plan.

The **Pennsylvania** [Employment First legislation](#) (2018) directs the Office of Administration (OA) to develop a framework for individuals to self-report a disability.

Texas enacted [SB 2027](#) (2017), which requires a study to evaluate, by region, training and employment opportunities in the state for individuals with intellectual disabilities.

Governor Northam of **Virginia** issued [Executive Order 47](#) (2020) directing the Director of Diversity, Equity, and Inclusion to report to the Governor on the progress of this order and the steps taken to ensure community integration, improve website accessibility, and advance employment of Virginians with disabilities.

Virginia also enacted [HB 1098](#) (2020), which requires state agencies to prepare a plan to increase employment opportunities at the agencies for individuals with disabilities. The Secretary shall establish guidelines regarding the development and content of state agency plans and establish a reporting system for tracking and reporting the progress of state agencies toward meeting the employment goals of the Commonwealth established by this section. In addition, the Secretary, in collaboration with the Department of Human Resource Management, shall develop an annual report on the number of individuals with disabilities directly employed by the state agencies. The information shall be included in the annual demographic report of the Department of Human Resource Management. Further, the Secretary shall report on the progress of state agencies toward meeting the employment goals of the Commonwealth to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by September 1 of each year.

Washington enacted [HB 1636](#) (2015), requiring all state agencies with 100 or more employees to provide an annual report to the legislature with data related to the percentage of individuals with disabilities in the agency's workforce, including the number of new hires employed from the Division of Vocational Rehabilitation services or the Department of Services for the Blind. The legislation also requires that each covered agency report to the legislature regarding opportunities for internships that would lead to permanent placement in entry-level positions.

FAST-TRACK HIRING SYSTEMS

As another SAME strategy, states can take systemic steps to increase the accessibility of application processes for people with disabilities. For example, state policymakers may want to consider:

- Adopting special appointment lists for noncompetitive employment;
- Institutionalizing hiring preferences, trial work periods and paid internships;
- Conducting mandatory interviews of qualified candidates;

- Making modifications to civil service exams to accommodate disabilities; and
- Offering expedited certification processes.

Special Appointment Lists, Trial Work Periods and Paid Internships

State policymakers may want to consider authorizing the maintenance of special appointment lists for noncompetitive appointment. State policymakers may also want to consider offering trial work periods and/or paid internships.

In that spirit, states may find inspiration from the Federal Government’s [“Schedule A Excepted Service Hiring Authority for Individuals with Disabilities.”](#) Schedule A is a hiring authority for federal agencies to use to tap into a diverse and vibrant talent pool without going through the often lengthy, traditional hiring process. Schedule A allows individuals to apply for a federal appointment through a noncompetitive hiring process. This means that if an individual meets the eligibility status of the appointment and the minimum qualifications for a position, the individual may be hired for the position without competing with the general public.

Another model worth considering is the Federal Government’s [Workforce Recruitment Program](#), which connects federal and private sector employers nationwide with highly motivated college students and recent graduates with disabilities who are eager to prove their abilities in the workplace through summer or permanent jobs.



EXAMPLES IN ACTION: Special Appointment Lists, Trial Work Periods and Paid Internships

Several states have established excepted service hiring authorities and maintain special appointment lists for noncompetitive appointments. States also authorize trial work periods and paid internships.

The [Alaska Provisional Hire Program](#) allows hiring managers to offer provisional appointment without competitive assessment to applicants with severe disabilities for up to four months with the possibility of transitioning the provisional employee to permanent employment. Provisional hiring into Alaska state agencies does not guarantee a permanent placement at the end of the four-month trial period. Eligible individuals with disabilities become certified for participation in the provisional hiring program through [Alaska’s Division of Vocational Rehabilitation](#). The provisional hire program does not establish a hiring preference for individuals with severe disabilities, and the hiring manager can elect to interview the qualified individual before beginning the provisional hire process and stop the provisional hire process at any time.

Delaware established a [Selective Placement Program](#) through [legislation and state policy](#). The program provides hiring managers with direct access to place qualified candidates with disabilities into vacant positions, bypassing some of the complicated and time-consuming processes. The [Division of Vocational Rehabilitation](#) (DVR) or the [Division for the Visually Impaired](#) (DVI) certifies the applicant as a person with a disability. In addition, a modest number of positions are dedicated to people with disabilities throughout the state, enabling agencies to provide paid training and work opportunities for applicants seeking the experience and learning that comes with employment. Some of these are short-term and limited to a year, while others are longer term and enable a person with a disability to attach to individual state agencies.

Florida enacted [HB 7003](#) (2016), which implements programs that incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments and other innovative strategies that are specifically geared toward individuals with disabilities.

In [Illinois](#), applicants with severe disabilities may be eligible for supported employment during a trial work period, with the possibility of permanent employment thereafter. Also, **Illinois** enacted [SB 726](#) (2019), which sets forth program requirements and establishes a trainee program for persons with a disability and authorizes state agencies to offer at least one position per year to be filled by a person with a disability through an established trainee program.

Maine offers a trial work period of up to one year for candidates certified by vocational rehabilitation. Mandatory interviews can also help otherwise-qualified applicants with disabilities “get a foot in the door” in state Government.

Maryland’s [Special Options Eligible List fast track program](#) provides individuals with disabilities the opportunity to engage in training programs with the Division of Rehabilitation Services (DORS) or an internship under [Maryland’s QUEST program](#), administered jointly through the Department of Budget and Management and DORS. Also, **Maryland** enacted [HB 1466](#) (2017), which authorizes the selection of specified disabled veterans for specified positions in the State Personnel Management System using a specified selection process and requires an appointing authority for a specified position in a unit in the executive branch of state government with an independent personnel system to develop a specified selection process for disabled veterans.

Governor Walz of **Minnesota** issued [Executive Order 19-15: Providing for Increased State Employment of Individuals with Disabilities](#) (2019) that encourages state agencies to use an on-the-job demonstration process authorized by state law and work with agencies to increase awareness of supported work, the on-the-job demonstration process, noncompetitive appointment of disabled veterans, internships and externships available to individuals with disabilities and student worker opportunities for individuals with disabilities

New Jersey enacted [A 5294](#) (2022), which provides fast track hiring and employment advancement opportunities by the state for persons with significant disabilities.

Nevada enacted [AB 192](#), which revises provisions governing the temporary limited appointment of persons with disabilities by state agencies. This provision of existing law is commonly referred to as the “700-hour program.” **Nevada** also enacted [SB 50](#) (2019), which further revises the 700-hour program.

Utah established the [Alternative State Application Process \(ASAP\) for individuals with disabilities](#) through [HB 17](#) (2010), under which qualified candidates with disabilities may be appointed to fill vacant positions for a six-month trial examination period. Upon completion of the examination period, the worker would then be in the position during the state’s customary probation period.

Governor Northam of **Virginia** issued [Executive Order 47: Expanding Opportunities for Virginians with Disabilities](#) (2020) to increase the employment of individuals with disabilities in state government through the use of available hiring authorities consistent with statutes, regulations and prior executive orders.

Virginia also enacted [HB 1098](#) (2020), which specifies that state agencies shall use available hiring authorities consistent with statutes, regulations and prior executive orders. **Virginia** enacted [HB 2140](#) (2021), which directs the Department of Human Resources Management to create an alternative application process for the employment of persons with a disability. The process must be noncompetitive in nature and provide an option for agencies to convert positions filled through the noncompetitive process. In April 2022, Virginia issued [guidance](#) for implementing the Alternative Hiring Process.

Hiring Preferences

State policymakers may want to consider adopting hiring preferences for qualified people with disabilities. This can involve awarding point preferences to people with disabilities on hiring examinations, requiring that individuals with disabilities be hired over individuals without disabilities when the two are substantially equal, providing hiring preferences to disabled veterans and more.



EXAMPLES IN ACTION: Hiring Preferences for People with Disabilities and Disabled Veterans

People with Disabilities

In **Arizona**, under [Ariz. Rev. Stat. §38-492](#), individuals with disabilities are given a five-point preference on examinations, provided the individual would receive a passing grade without preference.

Colorado enacted [SB 095](#) (2021), which establishes a hiring preference pilot program with the Department of Labor and Employment.

Kansas Governor Brownback issued [Executive Order 15-02](#) (2015), establishing a hiring preference for individuals with physical, cognitive and/or mental disabilities and requiring that all state executive branch agencies institute a system for giving hiring preference to individuals with disabilities.

Montana, under [ARM 2.21.14](#), requires that individuals with disabilities be hired over individuals without disabilities when the two are substantially equal in qualifications for an eligible initial hiring position.

Utah enacted [HB 139](#) (2021), which amends provisions related to hiring principles for, among others, individuals with disabilities relating to minimum qualification standards, job descriptions and job postings, and comparable experience.

Virginia enacted [HB 710](#) (2022), which requires any locality to take into consideration or give preference to an individual's status as a person with a disability in its employment hiring policies and practices, provided that such person with a disability meets all of the knowledge, skills and eligibility requirements for the available position.

Disabled Veterans

In **Arizona**, under [Ariz. Rev. Stat. §38-492](#), individuals with disabilities are given a five-point preference on examinations, provided the individual would receive a passing grade without preference. Individuals with disabilities who are also veterans receive a 10-point preference.

Florida enacted [HB 541/SB 922](#) (2021), which authorizes state and political subdivisions to revise lists of positions that are exempt from veterans' preference requirements; requires each political subdivision to develop and implement veterans' recruitment plan; and modifies point preferences given to veterans and their family members when numerically based selection process is used for hiring.

Nevada enacted [AB 309](#) (2017), which—in addition to providing preference points of veterans, widows and widowers of persons killed in the line of duty while on active duty and widows and widowers of veterans—directs the appointing authority of a state agency to interview a veteran with a service-connected disability who is so certified and is a qualified applicant for the position.

Oregon enacted [SB 184](#) (2021), which modifies laws related to preferences given to veterans in public employment.

In **South Dakota**, under [SB 90](#) (2015), school districts are required to provide veterans a preference in appointment, employment and promotion. The legislation provides that a veteran who has a service-connected disability shall be given a preference over a nondisabled veteran in relation to all public departments and subdivisions and upon all public works of this state and of the counties, municipalities and school districts of this state.

Wisconsin enacted [AB 441](#) (2016), which establishes the Wisconsin Veterans Employment Initiative and creates the Council on Veterans Employment. It requires the Council to advise and assist the Governor and state agencies with the recruitment and employment of veterans, especially those with a service-connected disability rating, to increase veteran employment in state government.

Wyoming enacted [SF 53](#) (2017), which provides to veterans and surviving spouses of veterans an advantage of five percent when a public department uses a numerical scoring system prior to the interview process and ten percent for disabled veterans. When a public department does not use a numerical scoring system, the advantage given must reasonably approximate the five or ten percent advantage.

Mandatory Interviews

State policymakers may want to consider adopting a mandatory interview option. This involves requiring the hiring authority to offer a qualified individual with a disability an interview, but this does not guarantee that the individual is offered a job.



EXAMPLES IN ACTION: Mandatory Interviews

Kentucky's [HB 338](#) (2019), which revises provisions relating to employment opportunities for service members and their families, relates to interview preference to a competitive classified position.

Maryland enacted [HB 1466](#) (2017), which requires appointing authorities to interview specified disabled veterans under specified circumstances.

The state of **Vermont** operates a [mandatory interview process](#) for state employment, available to any “qualified individual with a disability” as conforming to the Americans with Disabilities Act definition. Applicants may complete a short form indicating their impairment; how their impairment substantially limits major life activities; and provide documentation of impairment(s) and substantial limitations from a doctor, other medical professional or vocational rehabilitation counselor. Upon verification and approval from the state’s Department of Human Resources, qualified individuals with a disability will then be granted mandatory interview status. When applicants with mandatory interview status meet the minimum qualification standards for a posting and apply to that posting, their names are automatically added to the candidate referral list and the hiring authority is required to offer an interview.

Waive or Modify Civil Service Exam; Offer Onsite Accommodations

For many public sector positions, civil service examinations are a hiring requirement. However, certain individuals with disabilities may need onsite accommodations in a test-taking environment. In other situations, these exams may not be appropriate. Given these factors, some state policymakers are waiving or modifying civil service examinations and/or offering onsite accommodations as needed for job applicants with disabilities.



EXAMPLES IN ACTION: Waive or Modify Civil Service Exams and/or Offer Onsite Accommodations

In several states, people with disabilities applying for state employment may have the option of taking a modified civil service exam, or the exam may be waived altogether.

In **California**, an executive order directed state agencies to fill vacancies through the [Limited Examination and Appointment Program](#) (LEAP), which is designed to facilitate recruitment and hiring of qualified individuals with disabilities. In 2015, California passed [SB 644](#), altering LEAP by providing individuals with developmental disabilities with the option to obtain a civil service certification by successfully completing a 512-hour internship with a state agency in lieu of a written test or LEAP readiness examination.

Illinois offers an [Accommodated Testing Program](#) to ensure that applicants with disabilities can access the exams necessary for state government positions. The Accommodated Testing Program provides individuals with disabilities access to a number of on-site examination accommodations at state assessment centers. The [Successful Disability \(SD\) Opportunity Program](#) establishes an alternative examination process for individuals with disabilities who are consumers of the state’s Division of Rehabilitation Services. The SD program provides the applicant with an SD score that replaces standard scoring on civil service exams, places the individual on an SD program list and qualifies the individual for agency hiring considerations when the SD program list is requested. The [Alternative Employment Program](#) establishes a reassignment process for state employees on temporary leave for a disability and who can no longer perform the requirements of their current assignment. Employees on temporary disability leave may request to be reassigned to another state position for which they are qualified to perform a six-month probationary assessment. All three programs are facilitated by Central Management Services and established under statutory language of [Illinois Public Act 96-0078 of 1996](#).

New York operates the [Governor’s Program to Hire Individuals and Veterans with Disabilities](#). Under the program, up to 1,200 competitive civil service positions can be reserved for appointment of certified and

qualified individuals with disabilities. Individuals with disabilities interested in consideration for Section 55-b appointments can seek eligibility certification with the Employee Health Service of the New York Department of Civil Service. Eligibility is determined by employment history and degree of functional limitation caused by the disability condition and may require a physical examination by a department physician. Once certified, qualified individuals may express interest in entry-level positions directly to agencies and be considered based on qualifications and interviews, forgoing civil service examinations.

Oklahoma's [Optional Program for Hiring Applicants with Disabilities](#), administered by the state's Human Capital Management (HCM) division, provides for an alternative certification process for civil service. Under [Oklahoma Statute §74-840-4.12](#), individuals with disabilities may seek certification from the state Department of Rehabilitation Services, thereby waiving all tests related to civil service eligibility. Upon successful certification, individuals with disabilities may apply to job classifications of interest. HCM then makes eligibility determinations and adds the individual to eligibility lists for the corresponding job classifications, from which agencies can request referrals. Applicants hired through this program are eligible for permanent status in the classified service upon successful completion of a probationary period.

Utah established the Alternative State Application Program (ASAP) for individuals with disabilities in 2010 through [HB 17](#), allowing for on-the-job examinations in lieu of civil service testing. Utah administrative guidance allows for almost all competitive job postings in state government positions to be eligible for ASAP appointment. Interested individuals with disabilities can receive certification by providing documentation of disability and meeting the minimum qualifications of the job posting. Interested individuals are responsible for identifying eligible positions and then contacting the state's recruitment consultant, who in turn works with the agency hiring official to determine if they would like to interview the applicant. Those hired through the ASAP process are placed in a six-month, on-the-job examination position, whereupon successful completion leads to appointment to the position pending a one-year probationary period.

Formal Certification Processes

State policymakers may want to consider adopting formal certification processes under which a state agency, such as the state department of vocational rehabilitation, certifies trained and work-ready candidates for trial work periods, civil service exam exemption or special appointment lists.



EXAMPLES IN ACTION: Formal Certification Processes

State vocational rehabilitation agencies, public educational institutions and other agencies within state government already are working with skilled youth and adults seeking to enter or re-enter the workforce. State human resources agencies can make sure they have formalized partnerships with these entities to maximize their pool of potential workers. One step in this direction is ensuring that staff and recipients of vocational rehabilitation services are proficient in the application process for state government jobs.

Some states, such as [Illinois](#) and [Maine](#), have more formal partnerships with vocational rehabilitation agencies, in which the vocational rehabilitation agency certifies trained and work-ready candidates for trial work periods, civil service exam exemption or special appointment lists. These partnerships can also support human resource professionals in creating inclusive job announcements and qualification standards that encourage applicants with disabilities to apply.

ADVANCEMENT AND RETENTION

In the spirit of continuous improvement, the state as a model employer can enhance efforts to develop professionals with disabilities through career pathways planning that might include the adoption of reasonable accommodation policies, including centralized accommodation funding and/or expertise, telework and stay-at-work and return-to-work policies and processes.

Reasonable Accommodation Policies and Procedures

States are adopting policies and procedures governing reasonable accommodations.
Not for Public Distribution



EXAMPLES IN ACTION: Reasonable Accommodation Policies and Procedures/Leave Policies

California enacted [AB 313](#) (2021), which requires that each state agency develop its own reasonable accommodation policy for individuals with disabilities, consistent with state and federal law, to address requests for reasonable accommodations. The bill also requires the department to develop model policies for equal opportunity employment programs, including a model policy on reasonable accommodation.

Minnesota enacted [HB 63](#) (2021). To determine the appropriate reasonable accommodation, the employer, agency or organization shall initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the limitations resulting from the disability and any potential reasonable accommodations that could overcome those limitations.

Nevada enacted [SB 179](#) (2021), relating to interpreters. It revised the activities for which registration as an interpreter or real-time captioning provider is required, revised the requirements and professional classifications for registration as an interpreter or real-time captioning provider, provided for the establishment of qualifications to serve as a professional mentor and additional professional classifications in the field of interpreting, revised certain terminology related to interpreting and provided other matters properly relating thereto.

Tennessee enacted [HB 1578/SB 1183](#) (2021), which provides 36 hours of yearly leave for a state employee who is a veteran with a service-connected disability, of which 30 percent or more is to be used to attend appointments related to the service-connected disability.

Centralized Reasonable Accommodation Fund

A Centralized Accommodation Fund (CAF) is a consolidated funding strategy to meet reasonable accommodation requests made by employees and applicants with disabilities, rather than requiring each state agency to pay for accommodations out of individual agency budgets. By utilizing a centralized accommodation fund to pay for requests, states can ease the administrative and financial pressure on agency hiring personnel worried about the impact of accommodations on agency budgets.



EXAMPLES IN ACTION: Centralized Reasonable Accommodation Funds

Massachusetts and **Minnesota** have established centralized funds for accommodating individuals with disabilities.

Massachusetts operates a [Reasonable Accommodation Capital Reserve Account](#) designed to supplement existing agency resources. Established in fiscal year 2009, state agencies may make requests for supplemental funding for accommodations to the Massachusetts Office of Disability and Office of Access and Opportunity, which are evaluated. Funds are then disbursed until the reserve account is exhausted for the current fiscal year. In past years, at least \$100,000 has been made available to supplement state agency budgetary resources.

The [accommodation fund](#) in **Minnesota** has two goals—“to provide equal footing for applicants with disabilities during the hiring process” and “to provide for a more inclusive workplace environment.” The state’s Department of Administration can reimburse up to \$1,000 for current employees’ one-time expenses, recognizing that under the Americans with Disabilities Act (ADA) there is no limit to expenses reimbursed for applicants and ongoing expenses incurred for current employees unless the agency can demonstrate undue burden. In 2016, the legislature authorized \$200,000 for the fund.

Centralized Expertise on Disability Employment

In a similar vein, several states have centralized their reasonable accommodation *expertise*, providing state agencies with one go-to destination for guidance on disability employment matters.



EXAMPLES IN ACTION: Centralized Expertise on Disability Employment

Alaska's [ADA Compliance Program](#) embeds Americans with Disabilities Act (ADA) coordinators in major state agencies and assists employees with accommodation requests.

Oklahoma passed [HB 2062](#) (2013) to enact a statewide telework program and included language requiring the development of policies and guidance on the use of telework as a workplace accommodation for employees with disabilities.

Governor Walz of **Minnesota** issued [Executive Order 19-14: Providing for State Agency Coordination of the Americans with Disabilities Act](#) (2019) that directs the appointment of a State ADA Coordinator and the appointment of an ADA Coordinator at each agency. The coordinator's duties include acting as the designated agency resource for information and technical assistance regarding compliance with the ADA, including case-by-case interventions, as required and deliver training and technical assistance.

Governor Parsons of **Missouri** issued [Executive Order 19-16](#) (2019) directing the Office of Administration to designate a State Disability Employment Coordinator or Coordinators who shall be responsible for advising all state agencies on disability policy and compliance with disability rights laws; collaborating with and supporting all state agencies concerning recruitment, hiring, and retention of employees with disabilities; and training state employees and managers on disability-related issues.

Vermont utilizes a rigorous and streamlined [Request for Reasonable Accommodation](#) process for state employee accommodation requests. Vermont's process involves a review committee for accommodations exceeding \$500 and when there is a disagreement between department and employee on the reasonable accommodation offered or denial of a request at the department level.

Telework and Broadband

Legislation in several states has authorized employees working in state agencies to telework, or work from home remotely. Most of these state policies simply include telework as a form of reasonable accommodation for applicants and employees with disabilities, with some referencing a guide on [telework as a reasonable accommodation](#) developed by the Equal Employment Opportunity Commission.

In 2020, the Council of State Governments and SEED published an issue brief titled, "[Disability Inclusive Telework for States: State Approaches to Increasing Access and Inclusion](#)," which includes examples of state telework policies and describes policy options for making a state's telework policy more inclusive of employees with disabilities. One of the key findings of the report was that states must ensure telework is accessible to and usable by its employees with disabilities. Thus, employers must: ensure that employees with disabilities have an effective and meaningful opportunity to participate in telework programs, as mandated by the Americans with Disabilities Act; develop and update all components of a state telework program to consider inclusion and accessibility; and employ telework as a reasonable accommodation for individuals with disabilities even if a state does not offer a general telework program or otherwise limits eligibility for telework.

The National Conference of State Legislatures, in conjunction with SEED, is actively [tracking developments related to telework](#) for people with disabilities during the COVID-19 pandemic.



EXAMPLES IN ACTION: Telework and Broadband

Several states have implemented telework programs for state agency employees with disabilities.

Alaska (2020) and **Idaho** (2018) revised their telework policies to provide sole discretion to managers to authorize telework and to clarify that this discretion does not cover the provision of reasonable

ADVANCING DISABILITY-INCLUSIVE EMPLOYMENT POLICY

accommodations to qualified state employees with disabilities; those requests should be made through Human Resources staff.

California permits state agencies to offer full-time telework when accommodating people with disabilities.

Delaware (revised 2020) directs that additional or modified accommodations must be provided by state agencies to people with disabilities who decide to change their worksite. On October 4, 2021 (effective April 4, 2022), the Delaware Department of Human Resources issued a policy pronouncement titled "[Alternative Work Arrangement Policy and Procedure](#)."

Mississippi enacted [SB 2810](#) (2022), which provides the terms and conditions for state employees to engage in telework, including establishing protocols for accessibility.

North Dakota allows for a modification or waiver of policies for state employees who work from home as a reasonable accommodation.

Oklahoma (2013) includes several provisions to accommodate individuals with disabilities in state telework. For example, the legislation:

- Establishes a statewide telework assistance program, which provides policies and guidelines to support agency telework, including around "accommodation[s] for employees with disabilities."
- Requires state agencies to employ accessible information technology platforms, and to consult the Department of Rehabilitation Services and individuals with disabilities in reviewing information technology (as well as corresponding trainings and technical assistance).
- Establishes the creation of a central telework website, which provides resources to facilitate effective telework for employees and managers.

Examples of telework policy options benefiting all employees include:

Connecticut developed an [Interim Telework Training Manual for Managers and Supervisors](#).

Maryland (2014) has issued an [Agency Teleworking Implementation Manual](#). On May 30, 2021, the Governor of **Maryland** signed [HB 73](#) (and companion bill [SB 710](#)), which requires local governments to establish telework program, policies and guidelines.

Massachusetts (revised 2020) issued [Telework Policy for Executive Branch Agencies](#).

Minnesota revised (2020) its Telework Policy ([HR/LR Policy No. 1422](#)).

Virginia [SB 877](#) (2020) specifies that the secretary of administration shall have specified duties related to promoting telecommuting and alternative work schedule policies, including the use of telework alternatives for public and private employees and planning; developing and administering programs and activities by public and private sector employers and incentives for private sector employers to utilize telecommuting; and reporting annually to the General Assembly on telework participation levels and trends of both private and public-sector employees in the Commonwealth.

Governor Tony Evers of **Wisconsin** issued [Executive Order 80: Relating to the Creation of the Governor's Task Force on Broadband Access](#) (2020). The Task Force must research and recommend forward-looking broadband policies and initiatives that address state broadband goals and needs and report to the Governor and Legislature annually on recommendations for facilitating the deployment and adoption of broadband in Wisconsin.

Several states have enacted legislation regarding broadband, including authorizing grant programs—**Florida** enacted [HB 1239](#) (2021); **Hawaii** enacted [HB 1191](#) (2021); and **Maryland** enacted [SB 824](#) (2021).

Stay-At-Work/Return-To-Work Programs, Policies and Practices for State Employment

Disabilities may develop and vary in effects throughout a state employee's tenure. As model employers, states should recognize that disabilities may change in their impact over time or develop suddenly as a result of illness or injury. States can intervene early through stay-at-work and return-to-work programs with their own employees through the administration of health insurance, disability insurance and other benefits such as employee assistance programs (EAPs).

To assist on this front, the Council of State Governments (CSG) developed a [Stay-at-Work/Return-to-Work Toolkit](#), a resource designed to help state officials increase the employment retention and labor force participation of individuals who acquire and/or are at risk of developing work disabilities whether on or off the job.



EXAMPLES IN ACTION: Stay-at-Work/Return-to-Work Policies

Delaware [enacted legislation](#) establishing a return-to-work program for its state employees and appointed a [return-to-work coordinator](#) tasked with helping state workers stay at work or return to work after injury or illness.

New Jersey bills [SB 844](#) and [AB 1980](#) were approved in 2019. They permit a partial return-to-work for workers on temporary disability insurance who can work on a part-time basis.

Utah Governor issued [Executive Order 2021-08: Expanding Return to Work and Returnship Opportunities in Utah](#) (2021). The EO directs each state agency to review all procedures, policies and rules to identify new ways to provide meaningful returnship opportunities to those returning to the workforce and report to the Governor's office how many returnships have been filled. "Returnships" include assisting and connecting individuals to meaningful skills, training, employment and work-based learning opportunities.

Vermont's [Invest Employee Assistance Program](#) includes help with disability-related accommodations to stay at work.

Governor Northam of **Virginia** issued [Executive Order 47: Expanding Opportunities for Virginians with Disabilities](#) (2020) directing state agencies to increase efforts to accommodate individuals with disabilities within state government employment by increasing the retention and return-to-work of individuals with disabilities.

ACCESSIBLE TECHNOLOGY: WEBSITES, ONLINE SYSTEMS, MOBILE APPS AND OTHER FORMS OF INFORMATION AND COMMUNICATION TECHNOLOGY

Technology has transformed the way we work, but if the technology in one's workplace is not usable by everyone, it creates an inequitable workplace environment. As such, states are encouraged to consider elevating the importance of accessibility as a primary policy and program consideration in the design, development and procurement of information and communication technology (ICT) systems, including websites, online systems, mobile apps and other forms of ICT. Where technical standards for accessibility do not exist, states may want to consider adopting user-centered functional performance criteria for all disability types. Further, where procurement policies exist, states may want to consider including specific procurement policies applicable to ICT accessibility.

A poignant example of accessibility's importance at the state level can be found in the Information Technology and Innovation Foundation's (ITIF) 2020 [report on the accessibility of state unemployment websites](#). It reported that the vast majority of state unemployment websites fail basic mobile and accessibility tests, making it difficult for people with disabilities (who may use assistive technology and/or accessibility features) to apply for unemployment benefits and other employment services.

The Office of Disability Employment Policy's [Partnership on Employment & Accessible Technology](#) is a helpful resource in this regard. It offers tools and guidance to help organizations build and buy accessible products and ensure their workplace technology and digital products are accessible to people with disabilities.



EXAMPLES IN ACTION: Requirements and Standards for Accessible Technology

Many states have enacted policy governing requirements and standards for the design, use and procurement of ICT.

Alabama's [IT Universal Accessibility Standard](#) specifies that “just as environmental obstacles can inhibit individuals with certain disabilities, Internet use can also present obstacles for persons with certain disabilities.” The object of the policy is “to advise agencies on the use of the minimum requirements for online accessibility for all State of Alabama web sites that comply with Section 508 of the Rehabilitation Act.”

Arizona, through state statute, recognizes the need to improve accessibility of ICT in order to “increase the successful employment and access to government services” for individuals with disabilities. The statute directs each budget unit of the state to ensure that any information technology developed, procured, maintained or used by the budget unit provides accessibility comparable to and in line with the accessibility standards of Section 508 of the Rehabilitation Act.

California's IT accessibility policy explains that “it is the policy of the State of California that information and services within State Government, and provided via electronic and information technology, be accessible to people with disabilities.” The policy directs state agencies to comply with all federal and state laws prohibiting discrimination against individuals with disabilities, including laws outlining accessibility requirements for electronic and information technologies. State agencies must ensure that “their agency/state entity public web sites are accessible to both the general public and that their internal agency/state entity electronic and IT systems are accessible by state employees, including persons with disabilities.” The policy requires all electronic or information technologies developed, purchased, maintained or used by state agencies comply with the accessibility requirements Section 508 of the Rehabilitation Act. The policy also extends these compliance requirements to state contractors. Further, **California** enacted [AB 434](#) (2017), requiring state agencies to make their respective sites accessible by July 1, 2019. Each state agency is required to achieve conformance with Web Content Accessibility Guidelines (WCAG) 2.0, or any subsequent version, at a minimum Level AA success criterion. Compliance with the requirement will make the website of every state agency accessible to individuals relying on the use of assistive technologies such as screen readers, keyboard navigation and/or other assistive devices that allow them to access and consume digital content.

Colorado enacted [HB 1110](#) (2021), which specifies that the Chief Information Officer in the Office of Information Technology shall, consistent with the responsibilities of The Office, promote and monitor the access standards for individuals with a disability in the state's information technology infrastructure, including, but not limited to, architecture. Each state agency is directed to comply with the access standards for individuals with a disability.

Hawaii enacted [SR 5](#) (2021), which directs the Disability and Communication Access Board, in collaboration with the office of enterprise technology services, to convene a working group on accessible government documents. In 2022 **Hawaii** enacted [SB 2144](#), which requires the Office of Enterprise Technology Services, in consultation with the Disability and Communication Access Board and a working group composed of stakeholders, to develop and publish electronic information technology accessibility standards to be implemented by all state entities.

The **Illinois** [Information Technology Accessibility Act](#) (2007) requires state agencies and universities to ensure that their web sites, information systems and information technologies are accessible to people with disabilities.

Indiana specifies that if a contractor provides any information technology-related products or services to the state, the contractor shall comply with all IOT standards, policies and guidelines. The contractor agrees that all hardware, software and services provided to or purchased by the state shall be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973.

Kentucky recognizes the relationship between full participation in the workplace and community and the need to ensure accessible ICT, legislating that individuals with disabilities have a right to full participation

of life in the commonwealth, which includes the use of advanced technology by employees, program participants and members of the public.

Maine's [State Web Accessibility and Usability Policy](#) reasserts the state's commitment to the "Guiding Principles of Universal Access to Information" for all Maine's state government web sites.

Governor Walz of **Minnesota** issued [Executive Order 19-15: Providing for Increased State Employment of Individuals with Disabilities](#) (2019) that orders the applicable state agency to collaborate with Minnesota IT Services to provide advice and guidance for updating hiring tools to ensure accessibility and usability for all people with disabilities applying for state jobs. The executive order also directs state agencies to use best efforts to comply with accessibility standards and provide information and communication technology content, tools and resources that are accessible to and usable by employees with disabilities.

Governor Parsons of **Missouri** issued [Executive Order 19-16](#) (2019) directing the Office of Administration to ensure that the state's web-based hiring portal is accessible for applicants with disabilities.

New Hampshire [Web Accessibility Initiative](#) requires all state agencies to develop and maintain web and mobile sites that follow universal access standards that conform to regulations from Section 508 of the Rehabilitation Act. The New Hampshire initiative also applies to all web and mobile state job applications, seeking to remove barriers to application and hiring for individuals with disabilities.

New York updated its [Policy on Accessibility of Information and Communication Technology](#) (2019). The policy is based on Section 508 of the Rehabilitation Act, including WCAG 2.0 A and AA. [New York](#) explains the benefits of accessible ICT: "The benefits of the policy [establishing minimum accessibility requirements] will be a more fully inclusive state workforce and increased availability of governmental services to all members of the public."

Ohio updated its Web Accessibility Policy. Governor DeWine issued [Executive Order 2019-03D: Establishing Ohio as a Disability Inclusion State and Model Employer of Individuals with Disabilities](#) (2019) that directs the Office of Information Technology, in consultation with the state ADA Coordinator, to conduct an annual review of the state's web-based hiring portal to ensure it is accessible to applicants with disabilities.

Utah enacted [HB 284](#) (2019), which authorizes the Department of Technology Services to coordinate with executive branch agencies to provide basic agency website standards that address common website design and navigation standards.

Governor Northam of **Virginia** issued [Executive Order 47: Expanding Opportunities for Virginians with Disabilities](#) (2020), which directed the Virginia Information Technology Agency to work with other state agencies to improve the accessibility of the Commonwealth's websites for Virginians with disabilities and encourage similar efforts in the private sector.

The state of **Washington** adopted new [accessibility standards](#) based on WCAG 2.1. In addition, **Washington** enacted [HB 1329](#) (2022), which concerns public meeting accessibility and participation.

Inclusive Procurement Policies and Processes

As states pursue more accessible and equitable workplaces, inclusive procurement policies are increasingly important. Such policies can ensure that all resources, services, products and technologies acquired by state and local governments are fully accessible. As one example, states may want to consider giving a competitive advantage to bidders who can show that they have implemented accessibility policy related to their offerings and solutions.

In 2015, the National Association of State Chief Information Officers (NASCIO), established a workgroup to identify strategies for increasing the procurement by states of accessible websites, online systems and other forms of ICT. The workgroup concluded that state government procurement officials/offices are not focusing enough attention on encouraging/requiring vendors to adopt governance systems that facilitate the design of accessible ICT services and products. Later that year, NASCIO published a two-part series identifying strategies for improving the procurement by state agencies of accessible information technology (IT). The initiative is referred to as Policy-Driven Adoption for Accessibility (PDAA). Parts 1 and 2 of that series offer helpful guidance on accessible IT procurement in the public sector:

→ [Part 1: Accessibility in IT Procurement Part 1: Issues, Challenges and a New Approach \(July 2015\)](#)

→ [Part 2: Accessibility in IT Procurement Part 2: The PDAA Components \(August 2015\)](#)



EXAMPLES IN ACTION: Inclusive Procurement Policy

A number of states have implemented policies and practices to ensure that the ICT they procure is accessible to all users.

[Indiana's](#) boilerplate for state contractors includes a provision requiring all contractors ensure that their hardware, software and services adhere to Section 508 of the Rehabilitation Act and [IC §4-13.1-3](#). The state is permitted to terminate a contract with any contractor that fails to comply with these requirements.

[Kentucky's](#) access clause specifies that all alternative and nonvisual access standards must include the following minimum specifications:

- Effective, interactive control and use of technology, including the operating system, applications programs and format of the data, shall be readily achievable by alternative and nonvisual means;
- The technology equipped for alternative and nonvisual access must be compatible with IT used by other individuals with whom the individual with a disability must interact;
- Alternative and nonvisual access technology must be integrated into networks used to share communications among employees, program participants and the public; and
- The technology for alternative or nonvisual access must be able to provide equal access to telecommunications or other interconnected network services used by persons who are not disabled.

[Massachusetts](#) provides accessibility contract language required in any solicitations issued by executive department agencies for new systems or major upgrades of existing systems. The language includes:

- Mandatory vendor compliance with the state's Enterprise Information Technology Accessibility standards and MassIT Web Accessibility Standards, Version 2;
- Coordination between a vendor and state agency in identifying and providing accommodation to "all prospective attendees at [the vendor] training" who may require accommodation;
- A list of specific assistive technology (including class, brand and version) and specific desktop configuration "against which [vendor's] deliverables will be tested under this agreement"; and
- Required cooperation between the vendor and the agency in resolving interoperability problems that arise during the term of the maintenance agreement, as qualified.

Additionally, the program provides:

- The Generic Assistive Technology and Information Technology Environment List, as mentioned in its accessibility contract language, which outlines rules for testing specific IT devices and services;
- Supplemental Web Accessibility Testing Criteria 1.0, which provides a checklist for vendors to submit to the procuring agency;
- Required terms for accessibility for IT contracts, in the form of a slide show presentation, outlines the required contract language and other standards for executive department agencies; and
 - MassIT-issued waiver from accessibility requirements that outlines exemptions on the basis of due diligence, cost or undue burden or a prospective roadmap for meeting such standards in the future.

[Minnesota](#) enacted statutory language that pertains specifically to nonvisual technology access standards, to be included "in all contracts for the procurement of information technology by, or for the use of, agencies, political subdivisions, and the Minnesota State Colleges and Universities."

[Nebraska's](#) Commission for the Blind and Visually Impaired, the Nebraska Information Technology Commission, and the chief information officer developed a Nebraska Technology Access Clause stating

all “future information technology products, systems and services, including data, voice and video technologies, as well as information dissemination methods, will comply with the [Nebraska Technology Access Clause] to the greatest extent possible.” The clause requires:

- Availability of effective, interactive control and use of technology, including applications and programs, for individuals with disabilities; and
- All accessible IT is compatible with technology used by other individuals with whom the individual with a disability must interact, able to be integrated into communications networks and capable of providing equivalent access to interconnected network services used by the general population.

Minnesota is launching a [PDAA pilot program](#), asking a number of vendors to complete a self-evaluation and use the feedback to analyze the model and determine next steps.

The **Texas** Department of Information Resources has developed a comprehensive framework and project plan to guide the organization’s IT accessibility program and initiatives using the PDAA tool ([PDAA Additional Information Request](#)).

PERSONAL ASSISTANCE SERVICES

Personal assistance services include assistance with performing activities of daily living that an individual would typically perform if he or she did not have a significant disability, and that is not otherwise required as a reasonable accommodation. For example, personal assistants might help individuals with disabilities remove and put on clothing, eat and use the restroom.

Currently, reasonable accommodation policy under Title I of the ADA and most state antidiscrimination laws do not require employers to provide personal aids and devices, including personal assistance services. However, for some individuals with significant disabilities, the lack of personal assistance services means that employment is not feasible.

In recognition of this gap in policy, the [regulations](#) implementing the affirmative action provisions of Section 501 of the Rehabilitation Act, which, among other things, make a federal agency a model employer of people with disabilities, includes a new provision requiring the implementation of personal assistance services policies.

Several states are now considering the adoption of similar personal assistance services policies for state agencies.



EXAMPLES IN ACTION: **Personal Assistance Services**

Florida adopted the [James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program](#). The program provides personal care attendants and other support and services necessary to enable specified persons with significant and chronic disabilities to obtain or maintain competitive and integrated employment, including self-employment.

Ohio established the [personal care assistance program](#). In order to maintain employment, look for employment or participate in training for employment, some Ohioans with severe disabilities may require a personal care attendant/aide to assist them with activities of daily living (ADLs). OOD’s PCA Program provides partial reimbursement to eligible individuals so that they may hire an attendant/aide. OOD’s PCA Program does not hire attendants/aides; rather, OOD provides the funding so that eligible individuals may hire the attendant/aide who may best meet their needs.

Massachusetts established the [MassHealth Personal Care Attendant Program](#). The program helps people with permanent or chronic disabilities keep their independence, stay in the community, and manage their own personal care by providing funds to hire personal care attendants (PCAs). The PCA consumer (the person receiving PCA services) is the employer of the PCA, and is fully responsible for recruiting, hiring, scheduling, training and, if necessary, firing PCAs.

New Jersey enacted [SB 3455](#) (2022), which revises eligibility requirements for State Workability Program and Personal Assistance Services Program.

DISABILITY AWARENESS TRAINING FOR STATE PERSONNEL

While states may have robust policies and procedures to attract and retain employees with disabilities, it is important to offer training to direct supervisors and other employees regarding these policies to maximize implementation. Such training typically explores policies and procedures pertaining to applicants and employees with disabilities such as reasonable accommodation procedures and disability etiquette.



EXAMPLES IN ACTION: Disability Awareness Training

Several states have implemented policies requiring disability inclusion training for supervisors and other state employees.

Florida enacted [HB 7003](#) (2016), which implements a mandatory training program for human resources personnel and hiring managers.

Illinois enacted [SB 1136](#) (2019), which requires each state agency to send at least one hiring manager to be trained each year about hiring people with disabilities.

In **Massachusetts**, state agencies must attend [two levels of awareness training](#); the first involves diversity awareness and is completed in the first sixth months of employment, and the second—disability awareness—is completed within the first year of employment.

Governor Walz of **Minnesota** issued two executive orders. [Executive Order 19-15: Providing for Increased State Employment of Individuals with Disabilities](#) (2019) directed the creation of a plan for accessible training programs for agency hiring managers and supervisors, human resources personnel, Affirmative Action Officers and ADA Coordinators. [Executive Order 19-14: Providing for State Agency Coordination of the Americans with Disabilities Act](#) (2019) orders the delivery of training and technical assistance to agency managers and supervisors on, among other things, interviewing and accessing information on state disability resources.

Governor Parson of **Missouri** issued [Executive Order 19-16](#) (2019) ordering the Office of Administration and the State Disability Employment Coordinator or Coordinators shall ensure that all state employees participate in initial and periodic disability awareness training to build and sustain a culture of inclusion in the workplace, which will include discussion of rights to reasonable accommodation in the workplace.

Nevada enacted [AB 365](#) (2021), which requires the training of supervisors and managerial employees concerning implicit bias.

Governor DeWine of **Ohio** issued [Executive Order 2019-03D: Establishing Ohio as a Disability Inclusion State and Model Employer of Individuals with Disabilities](#) (2019). The executive order includes a provision directing applicable agencies to ensure that all state employees participate in regular disability etiquette and awareness training.

Rhode Island enacted [H 7737](#) (2022), which requires the Office of Diversity, Equity and Opportunity (ODEO) to create and for all state and municipal employees to receive annual training in cultural competency.

The **[State Exchange on Employment & Disability \(SEED\)](#)**, an initiative funded by the U.S. Department of Labor’s Office of Disability Employment Policy (ODEP), assists states in developing effective and inclusive workforce policies that promote disability employment. Recognizing that every state and locality is unique, SEED offers policy options and resources policymakers can tailor to meet their needs and goals. The policy options in this brief are not intended to influence policymaking, but rather serve as an informational reference and not for public distribution. To this end, SEED partners with leading intermediary organizations that serve as trusted sources of information to state and local policymakers.

**2023 DISABILITY AND MENTAL HEALTH SUMMIT
DISABILITY LEGISLATIVE PANEL**

**Presentation by Eve Hill
Legislative & Policy Counsel
State Exchange on Employment & Disability
May 11, 2023**

Brief Bio of Eve Hill

Eve Hill is one of the nation's leading disability rights attorneys and is a partner at Brown Goldstein & Levy where she continues to pursue her devotion to civil rights. She is co-leader of Inclusivity, BGL's Strategic Consulting Group. As a consultant for Concepts Communications, Eve is a member of the State Exchange on Employment & Disability (SEED) Team where she researches and drafts policy options for state policymakers interested in advancing employment opportunities for people with disabilities.

From 2011 to January 2017, Eve served as Deputy Assistant Attorney General of the U.S. Department of Justice, Civil Rights Division, where she was responsible for oversight of the Division's disability rights, education, and Title VI enforcement and the American Indian Working Group. She was part of the negotiating team for the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled; testified before the Senate Foreign Relations Committee to support ratification of the U.N. Convention on the Rights of Persons with Disabilities; enforced accessibility requirements for websites and other digital technology; implemented Olmstead community integration requirements in employment and education; and enforced disability rights in education, testing, and health care.

Eve is the former Senior Vice President at the Burton Blatt Institute of Syracuse University, where she was responsible for the Institute's work on the Americans with Disabilities Act, disability civil rights, and communications issues.

Preceding her employment at the Burton Blatt Institute, Eve was the District of Columbia's first Director of the Office of Disability Rights, responsible for ensuring compliance with the ADA throughout District government. This position gave Eve an insider's view on investigations of complaints, informal dispute resolution, litigation consultation, training, and disability policy development.

As the Executive Director of the Disability Rights Legal Center at Loyola Law School, Eve managed all aspects of this non-profit disability rights organization and supervised all major programs, including the Civil Rights Litigation Project, Disability Mediation Center, Cancer Legal Resource Center, Community Outreach Program, and Education Advocacy Project.

Remarks

Thank you for having me today. I'm pleased to speak on behalf of the [State Exchange on Employment and Disability](#) (SEED). SEED is an initiative funded by the U.S. Department of Labor's Office of Disability Employment Policy to assist states in developing effective and inclusive workforce policies that promote disability employment. Recognizing that every state is unique, SEED offers policy options and resources states can tailor to meet their needs and goals.

States can send a clear message that employment of people with disabilities is a high priority first by implementing a comprehensive set of policies, practices and processes, known collectively as State as a Model Employer (SAME) policies. These policies help to increase representation of people with disabilities within public-sector workforces. When acting as model employers, the states also have an opportunity to serve as examples for private employers, demonstrating the economic and organizational benefits of hiring people with disabilities.

To this end, SEED recommends a number of principles to help states become model employers of people with disabilities. Among those principles are:

- The adoption of formal policies, through legislation or executive order;
- Creating infrastructure through cabinet positions, working groups, or advisory boards;
- Establishing government-wide strategic plans;
- Implementing diversity and inclusion initiatives including affirmative and positive actions;
- Implementing fast track and other hiring systems;
- Carrying out advancement and retention policies and procedures, such as:
 - reasonable accommodation systems,
 - centralized reasonable accommodation funds,
 - telework policies, and
 - stay-at-work and return-to-work policies
- Focusing on accessibility of websites and other information and communication technologies;

- Adopting policies for provision of personal assistance services; and
- Offering disability awareness training for state staff.

I note that Pennsylvania has taken action to implement disability related diversity and inclusion initiatives, including:

- Establishing a Governor’s Cabinet for People with Disabilities and Advisory Committee for People with Disabilities;
- Setting a goal of having 7% of its workforce be people with disabilities. And that goal has been making steady progress; and
- Implementing an Executive Order emphasizing that experience can replace a college degree as a qualification for state employment.

In addition, recommendations have been made by the **Employment First Oversight Commission**:

- to establish Employment First infrastructure within the government;
- to reframe procurement preferences for government suppliers to incentivize competitive integrated work for people with disabilities rather than segregated work;
- to permit creation of “customized employment job classifications” within agencies; and
- to create a fast track hiring system for people with disabilities.

I want to focus today on ***Fast Track and other similar Hiring Systems***, which are some of the most effective ways of increasing the representation of people with disabilities within a state workforce.

Special Appointment Authorities, Trial Work Periods, Paid Internships

Special Appointment Authorities, Trial Work Periods and Paid Internships that are intended to result in permanent employment are very effective fast-track hiring mechanisms for increasing employment of people with disabilities.

Perhaps the most famous of these is the federal **Schedule A** program, under which federal agencies may hire a person with a significant disability without going through the usual competitive process. When hired through Schedule A, the person remains a Schedule A employee for two years and, upon successful completion of that period, converts to a permanent employee.

Pennsylvania’s proposal, **HB348**, would be similar to Schedule A in that it would allow eligible individuals with disabilities to be appointed noncompetitively to a temporary or permanent

position. Appointment may be to a temporary position if it is necessary to observe the individual in order to tell if he or she is able or ready to perform the job. Appointment may be to a permanent position if it is likely the person will succeed in the job based on his or her education and experience. A temporary appointment may be converted to a permanent position once it is determined that the person can do the job. At that point, the general probationary period begins. For a permanent appointment, the probationary period begins immediately upon appointment and the person will be converted to classified service if the probationary period performance is satisfactory.

A number of states have implemented similar programs:

- The [Alaska Provisional Hire Program](#), which is authorized by [statute](#), allows hiring managers to offer provisional appointment without competitive assessment to applicants with severe disabilities for up to four months with the possibility of transitioning the provisional employee to permanent employment.
- **Delaware** established a [Selective Placement Program](#). The program provides hiring managers with direct access to place qualified candidates with disabilities into vacant positions, bypassing some of the complicated and time-consuming processes.
- [New Jersey](#), which provides fast track hiring and employment advancement opportunities by the state for persons with significant disabilities.
- **Utah** established the [Alternative State Application Process \(ASAP\)](#) for individuals with disabilities, under which qualified candidates with disabilities may be appointed to fill vacant positions for a six-month trial examination period.
- **Virginia** enacted [HB 2140](#) (2021), which directs the Department of Human Resources Management to create an alternative application process for the employment of persons with a disability. The process must be noncompetitive in nature and provide an option for agencies to convert positions filled through the noncompetitive process.

*States have also implemented **Trial Work** and **Paid Internship** programs for people with disabilities that can lead to permanent employment, including:*

- [Florida](#) offers programs that incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments and other innovative strategies that are specifically geared toward individuals with disabilities.
- In [Illinois](#), applicants with severe disabilities may be eligible for supported employment during a trial work period, with the possibility of permanent employment thereafter. Also, Illinois offers a trainee program for persons with a disability and authorizes state agencies to offer at least one position per year to be filled by a person with a disability through a trainee program.

- **Maine** offers a trial work period of up to one year for candidates certified by vocational rehabilitation. Mandatory interviews can also help otherwise-qualified applicants with disabilities “get a foot in the door” in State Government.
- **Maryland**’s [Special Options Eligible List](#) fast track program provides individuals with disabilities the opportunity to engage in training programs or an internship under [Maryland’s QUEST program](#). Also, Maryland enacted [HB 1466](#) (2017), which authorizes the selection of disabled veterans for positions in the State Personnel Management System using a specified selection process.
- **Nevada** has a so-called “[700-hour program](#)” that provides temporary limited appointment of persons with disabilities by state agencies.

*A number of states have also implemented **Preferences** to increase hiring of people with disabilities:*

- In **Arizona**, individuals with disabilities are given a five-point preference on examinations, provided the individual would receive a passing grade without preference.
- **Colorado** has a hiring preference pilot program with the state’s Department of Labor and Employment.
- **Montana** requires that individuals with disabilities be hired over individuals without disabilities when the two are substantially equal in qualifications.
- **Virginia** requires any locality to take into consideration or give preference to an individual’s status as a person with a disability in its employment hiring policies, provided that such person meets all of the knowledge, skills and eligibility requirements for the available position.

*Still other states offer **Mandatory Interviews** to applicants with disabilities:*

- **Maryland** requires appointing authorities to interview disabled veterans under specified circumstances.
- **Vermont** operates a [mandatory interview process](#) for state employment, available to any “qualified individual with a disability.” When applicants with mandatory interview status meet the minimum qualification standards for a posting and apply to that posting, the hiring authority is required to offer an interview.

*Other states **Waive or Modify Civil Service Exams** for applicants with disabilities:*

- **Illinois** offers the [Successful Disability \(SD\) Opportunity Program](#), which establishes an alternative examination process for individuals with disabilities that provides the applicant with an SD score that replaces standard scoring on civil service exams, places

the individual on an SD program list and qualifies the individual for agency hiring considerations.

- **Oklahoma's** [Optional Program for Hiring Applicants with Disabilities](#) provides for an alternative certification process for civil service that waives all tests related to civil service eligibility.
- **Utah** established the [Alternative State Application Process \(ASAP\)](#) for individuals with disabilities, allowing for on-the-job examinations in lieu of civil service testing.

Thank you again for inviting me to testify at this important hearing today.

A Toolkit for Educators & Service Providers:
Supporting Autistic Students - in High School and Beyond

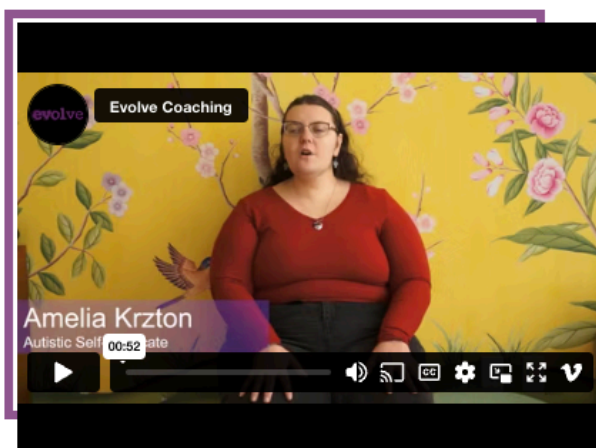
[Sign up](#) to receive the toolkit as soon as it's released (available this June!)



www.evolve-coaching.org

Challenges

Possible Challenges of Educational Settings for Autistic People



Assumptions About Autism

Some harmful assumptions include:

- Autistic students are usually white, male, and middle-class.
- It will be obvious if a student is Autistic because all disabilities are visible.
- Autistic people are either incapable in all areas, or
- They are incapable in most areas but a genius at one special topic, like math. The word “savant” is often used to describe this scenario. Savant is now widely thought of as an offensive word.

These are just a few of the assumptions that harm diagnosed and undiagnosed Autistic students. Their neurodiverse needs and behaviors may be seen as defiance, lack of care, or lack of ability. This can lead to a lack of support.



“Growing up as an undiagnosed Autistic kid in the education system was incredibly difficult, largely due to the adults in my life who could not or would not even begin to understand why I was struggling. When I got to

Autism in Education

Autistic Students and Post-Secondary Education

Young Autistic adults are much less likely to enroll in college than non-autistic students. There are many reasons for this, including:

- ★ Financial need
- ★ Lack of support at school
- ★ Lack of support outside of school
- ★ Admissions staff may be biased about Autistic people's abilities
- ★ High school teachers or counselors might discourage applying due to bias
- ★ Autistic people may have internalized bias, making them fear they can't do well at college

College or trade school will not be the right next step for all students after high school. Prepare students for all options. Be



Glossary Terms

Here are some of the terms you'll see used throughout this toolkit

[A - D](#) [F - I](#) [J - N](#) [M - S](#) [T - Z](#)

Ableism/Ableist - Ableism is a bias that assumes that disabled people are worse or less capable than people with typical abilities. Ableism also describes the discrimination that happens because of this belief. Ableism includes bias against people with any type of disability, including neurological disabilities like autism. Like with many other biases, it is possible to be ableist without realizing it. Learn more here:

[Ableism 101](#)

Examples of ableism and suggestions for how nondisabled people can become less ableist

[Ableism](#)

Disability activist Leah Smith discusses experiencing ableism

Accommodations - An accommodation is a change that makes it easier for students to learn. Accommodations may change:

- How information is given to students
- How students are expected to show what they have learned
- What the environment is like where learning happens

When people use the term “accommodations,” they are often talking about Individualized Education Programs (IEPs), which allow specific changes to help disabled students. The word “accommodation” can also describe other ways that people help each other. This toolkit is filled with ideas for how to accommodate your students’ unique learning styles.