



## The Components of Integrated Employment Service Systems

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### I. Introduction

This is the third in a series of articles on competitive integrated employment (CIE). The first, *Ending Segregated Workshops and Promoting Competitive Integrated Employment*,<sup>1</sup> addressed relevant legislation, court decisions, and litigation strategies for shuttering segregated employment programs. The second, *Advancing Competitive Integrated Employment through Legal Advocacy Systems*,<sup>2</sup> surveyed successful policy, legislative, and community stakeholder strategies in reforming systems and requiring CIE in law and practice.

The third and fourth articles in this series identify the basic pillars of effective integrated employment systems, including: (1) supported employment services; (2) outreach, in-reach, and informed choice; (3) assessment, career development plans, and service planning; (4) closing sheltered workshops; (5) transitioning individuals from sheltered workshops to integrated employment; (6) the role of vocational rehabilitation; (7) the role of school districts; (8) training and technical assistance; (9) funding; (10) outcomes; (11) data and reporting; and (12) monitoring and coordination.

This article will focus on the first four pillars of competent systems advancing CIE for people with disabilities. While every state's employment service system is organized somewhat differently, relies upon funding from different sources, and depends on different service delivery networks, there are many features common to most, or even all, such systems. Visionary leadership and successful litigation has been instrumental in identifying the essential pillars of an effective, integrated employment services system.<sup>3</sup> This article will primarily focus on one state – Oregon –

<sup>1</sup> Schwartz, S., & Moore, R. (July 15, 2021). Ending Segregated Workshops and Promoting Competitive Integrated Employment (CIE); Legal Foundations for Protection and Advocacy Entities, Part 1. Disability Employment Technical Assistance Center. Retrieved March 6, 2022, Retrieved from: [https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/07/DETAC\\_BY\\_Resource\\_PA\\_Legal\\_Foundations\\_Pt\\_1\\_Final\\_508.pdf](https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/07/DETAC_BY_Resource_PA_Legal_Foundations_Pt_1_Final_508.pdf).

<sup>2</sup> Moore, R., & Schwartz, S. (September 2021). Advancing Competitive Integrated Employment through Legal Advocacy Systems; Legal Foundations for Protection and Advocacy Entities, Part 2. Disability Employment Technical Assistance Center. Retrieved March 6, 2022, Retrieved from [https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/10/DETAC-2021-PA-2\\_Final\\_508.pdf](https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/10/DETAC-2021-PA-2_Final_508.pdf)

<sup>3</sup> *Lane v. Kitzhaber*, 841 F.Supp.2d 1199 (2012); Settlement agreement at *Lane v. Brown*, 166 F.Supp.3d 1180 (D. Or. 2016), available at: <https://www.oregon.gov/dhs/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Lane%20v%20Brown%20Proposed%20Settlement.pdf>; See also: *United States v. Rhode Island* Consent Decree, 1:14-cv-00175 (D.R.I.)



where comprehensive, foundational reforms to the state’s employment service system were dictated by a court-ordered Settlement Agreement, implemented by dedicated state officials, monitored by an Independent Reviewer, and overseen by a federal judge.<sup>4</sup> While binding Settlement Agreements are limited to a few states, the identified components of successful integrated employment systems, and the effective implementation of those components over the past six years, provide a valuable example of what is necessary and what is possible for transformation of state employment service systems.

## II. Expand Integrated Employment Services

The most obvious component in the success of any integrated employment system is access to an array of employment support services critical for ensuring that people with disabilities, and particularly people with intellectual and developmental disabilities (IDD) who are segregated in sheltered workshops, can achieve CIE.<sup>5</sup> Although this array of services, as described in Medicaid State Plans, Home and Community Based Service (HCBS) waiver documents, program descriptions, and provider manuals may use different service definitions, there are five basic services or supports that should be available and are effective in facilitating CIE.

### A. Discovery

“Discovery” is a supportive community-based experience designed to assist an individual with disability to explore, identify, and select employment options and goals.<sup>6</sup> It begins with an exploration of the person’s abilities and interests, and then identifies potential employment opportunities which the person can investigate through internship, trial work, volunteer, and similar programs. The person is supported by a trained discovery professional who both creates and then monitors a discovery plan. This time-limited service may be part of the vocational rehabilitation process, or a separate pre-vocational service provided and funded by a state disability agency. The service results in a comprehensive career profile leading to employment or a referral to a job development program, tailored to the person’s preferences, interests, and strength.

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2014), available at [ri-olmstead-statewide-agreement.docx \(live.com\)](https://ri-olmstead-statewide-agreement.docx (live.com)); Memorandum of Understanding (MOU) Between the NC Dept. of HHS and DRNC. (2019, February 11), retrieved from Disability Rights NC MOU. <https://disabilityrightsnc.org/wp-content/uploads/2019/04/MOU-Signed.pdf>.

<sup>4</sup> Oregon has developed and collected an extensive set of materials for its employment service system which provides detailed descriptions of its service definitions and requirements; assessment and service planning process; competency and training requirements; funding and billing guidelines; provider instructions, interagency collaborations; data collection and reports; and expected employment outcomes. See <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>

<sup>5</sup> Oregon’s expectations, instructions, and rules concerning CIE are available in the Competitive Integrated Employment section at <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>

<sup>6</sup> Oregon defines Discovery as: “a time-limited comprehensive, person-centered, and community-based employment planning support service to better inform an individual seeking an individualized job in a competitive integrated employment setting and to create a Discovery Profile. Discovery includes a series of work or volunteer related activities to inform the individual and the job developer about the strengths, interests, abilities, skills, experiences, and support needs of the individual, as well as identify the conditions and employment settings in which the individual will be successful. Discovery is also an opportunity for the individual to begin active pursuit of competitive integrated employment.” Oregon Administrative Rule 411-345.0020(5).

Oregon has developed a model discovery profile and plan, instructions, guidelines, and staffing expectations. See Discovery at <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>



## **B. Job development**

Job development is the identification of an employment position in a competitive, integrated setting that is consistent with the individual's interests and abilities.<sup>7</sup> It is not limited to employment opportunities as they are presently structured, but can also include "job carving," which modifies existing employment positions to best match the person's strengths and abilities. Job carving allows specific responsibilities and duties to be structured or redesigned in a mutually beneficial way to maximize the individual's contributions to the workforce and the unique needs of the employer.

## **C. Job coaching**

Job coaching is the provision of ongoing support to allow the individual to learn and practice the skills necessary to perform the responsibilities of the employment position.<sup>8</sup> It includes both pre-employment training and continued support as necessary – and often the ongoing presence and support at the employment location – that allows the person to maintain and advance in employment. Job coaching fosters long-term independence through recognition of expectations, goals, and support needs as they arise, and identifies individualized strategies or accommodations to bolster success.

## **D. Customized employment**

Customized employment involves both the creation of new businesses owned and/or operated by the person with disability or the modification of an existing employment position that allows the person to perform some or all the duties of the employment position.<sup>9</sup> Customized employment identifies opportunities for creating or individualizing jobs that benefit both the local business and the job seeker.<sup>10</sup>

## **E. Employment Related Services**

Employment related services include a range of related supports that may be needed to allow a person to achieve and maintain CIE.<sup>11</sup> This often includes transportation to and from the

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<sup>7</sup> Oregon defines Job Development as "support for an individual to obtain an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment." *Id.* 411-345.0020(16). Oregon has developed staff training and competency standards, worker guides, and billing instructions. See Core Competency/Training and Job Development sections at <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>

<sup>8</sup> Oregon defines Job Coaching as "support for an individual to maintain or advance in an individual job in a competitive integrated employment setting in the general workforce, including customized employment or self-employment." *Id.* 411-345.0020(15). Oregon has developed staff training and competency standards, worker guides, and billing instructions. See Core Competency/Training and Job Coaching sections at <https://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Pages/policy.aspx>

<sup>9</sup> Oregon defines Customized Employment as "competitive integrated employment for an individual with a disability that is based on an individualized determination of the strengths, needs, and interests of the individual, is designed to meet the specific abilities of the individual, and the business needs of the employer." *Id.* 411-345.0020(4).

<sup>10</sup> *Customized Employment Plan Design Guide*. Griffin-Hammis Associates, from: <https://griffinhammis.typepad.com/Discovery%20Methodology%20PDF.pdf>.

<sup>11</sup> The Lane Settlement Agreement defines Related Employment Services as "services which are provided by ODDS or VR in conjunction with or after the completion of needed Supported Employment Services to enable an individual to maintain or advance in Competitive Integrated Employment. Services may include, but are not necessarily limited to, benefits counseling, transportation support, personal care supports (such as Activities of



employment site, behavior or nursing supports on the job, as well as an array of assistive technologies and medical equipment necessary to allow the person to work in an integrated setting. Long-term job placement success often relies upon access to these ancillary services that make day-to-day employment tenable.

While this list is not meant to be exclusive or definitive, it does provide the essential services that states should fund and provide for people with disabilities so that they can attain and maintain CIE.

### **III. Outreach, In-Reach, and Informed Choice**

#### **A. WIOA career counseling provisions**

Section 511 of the Workforce Innovation and Opportunity Act (WIOA)<sup>12</sup> requires state vocational rehabilitation agencies to provide information and counseling on an annual basis to people with disabilities who work pursuant to a Section 14(c) certificate and are paid a subminimum wage.<sup>13</sup> The purpose of this statutory provision is to ensure that sub-minimum wage workers are provided the information necessary to understand their options and are referred to the vocational rehabilitation (VR) agency if they are interested in competitive employment. States are required to document the process and its findings.

States have implemented this requirement with varying levels of vigor, with success generally comparable to their investment in disseminating information and ensuring rights and opportunities under the law. Some have relied upon VR counselors or contractors to conduct large group presentations at 14(c) provider programs that generally describe service options to hundreds of workers in a single session, with no individual discussion. Not surprisingly, few people with disabilities subsequently request a referral to VR after these sessions.<sup>14</sup>

Other states have retained qualified and committed employment professionals with extensive experience in providing CIE to people with significant disabilities who have limited work histories.<sup>15</sup> These professionals meet individually with each person in the sheltered workshop to identify their interests and preferences, explain the benefits of CIE, and initiate referrals to VR for everyone, who does not specifically oppose such a referral. Using the latter approach, states have

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Daily Living, or ADL), environmental accessibility adaptations, behavioral supports, assistive technology, time management training, and social skills training as they relate to continued participation in Competitive Integrated Employment. See *Lane Settlement Agreement*, Section II(8).

<sup>12</sup> Workforce Innovation and Opportunities Act (WIOA), 42 U.S.C. § 3101; Section 214(c) of the Fair Labor Standards Act, 29 U.S.C., § 214(c) (2000).

<sup>13</sup> Applewhite, H. M. (2016, July 27). United States Dept. of Labor, Wage and Hour Division Letter. Retrieved March 16, 2022, from <https://www.oregon.gov/dhs/EMPLOYMENT/VR/PolicyRuleDocs/Section-511-Wage-Hour-Letter.pdf>.

<sup>14</sup> Oregon's initial 511 review was mostly conducted by VR counselors who mostly concluded that the person was not interested in CIE.

<sup>15</sup> Oregon's second 511 review was conducted with a blend of VR counselor and independent, qualified, employment professionals. Their findings were dramatically different, with the VR counselors identifying less than 25% in their reviews who wanted to work in CIE, while the independent employment professionals determined that more than 60% of the individuals who they met with were interested in CIE.



determined that more than 80% of people in sheltered workshops are interested in exploring CIE and should be referred to VR and engaged in a discovery process.<sup>16</sup>

WIOA's annual 511 outreach requirements have the power to create transformative change by identifying individuals working at sub-minimum wage, usually in a segregated setting, who are interested in exploring CIE. When done with a focus on promoting CIE, the process not only results in a long list of people to be referred to VR, but also consequential reforms to the VR agency which may not have the capacity, expertise, or commitment to providing work exploration, job development, job coaching, and ultimately CIE to people with disabilities who have been in sheltered workshops for decades. Reform to the VR intake process, eligibility criteria, and job development capacity can transform the agency to become a significant partner in promoting CIE for people in segregated employment settings, and make them the leading agency responsible for ensuring that all people with disabilities in sheltered workshops can obtain CIE.

### ***B. Informed choice***

Ensuring that individual choices concerning employment are truly informed, voluntary, and reflective of meaningful personal preferences and aspirations presents unique challenges for people in sheltered workshops, similar to the challenges of providing informed choice to people in other institutions. It plainly is insufficient to provide people with written information or large group presentations about employment options. Instead, the informed choice process must include individualized engagement, on multiple occasions, involving a circle of support, presented in a culturally-competent and learning appropriate manner – all designed to overcome the vestiges of institutionalization. The process must offer accommodations to both the individual's decision-making capacity, as well as other external and internal conditions which may inhibit true informed choice. It must ensure and foster opportunities to explore competitive employment, visit integrated employment settings, meet with, and learn from other people with disabilities who are working in CIE, and hear from peers who successfully navigated the transition from sheltered to integrated employment. Where applicable, it should include information about the impact of CIE and increased wages on access to benefits, especially Medicaid for which there are state-specific financial eligibility rules. It must address the systemic and endemic causes of the current segregation as well as the obstacles to achieving integrated employment. It must account for the consequences of prolonged institutionalization, as well as the factors that contributed to the individual, community, or family's belief that only protected, limited, sheltered employment was a realistic option for the individual.

States do not routinely offer this form of an informed choice process. Focused efforts on this critical component of an integrated employment system are necessary to redesign the process to incorporate each of the elements noted above. Absent these significant reforms, states can readily conclude that many persons in sheltered workshops would prefer to remain in segregated settings because this is all that they know, and change, for all of us, is challenging. Unless and until a fundamentally restructured informed choice process is the standard process required by a state's employment system, full participation in CIE is not likely to become a reality.

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<sup>16</sup> Oregon's subsequent 511 reviews were conducted entirely by independent employment professionals who concluded that the vast majority of persons in sheltered workshops – over 80% -- were interested in at least exploring CIE. All such persons were referred to VR and enrolled in a discovery process.



## **IV. Assessment, Career Development Plans and Employment Service Planning**

### **A. Assessment**

A person-centered vocational assessment is the first step in career development planning. Each person with a disability is best served by a comprehensive assessment process that presumes employability.<sup>17</sup> Quality assessments drive effective employment service planning and the short and long-term strategies to achieve an individualized, competitive integrated employment outcome (CIE). An appropriate vocational assessment must be based upon an informed understanding of: (1) the person (2) their needs; (3) their gifts, talents, preferences, dreams, and aspirations; and (4) the supports required to be successful. This is not always apparent at the inception of the planning process, particularly for people with limited or no work experience. It is imperative that vocational assessments never occur in a segregated setting. The assessment process needs to include safeguards for experientially based informed choice. The most effective assessments occur in real job settings versus evaluating a person in an office setting or simulated work environment.

### **B. Career Development Plans**

A Career Development Plan identifies the individual's employment goals and objectives; the services and supports needed to achieve those goals and objectives; the people, agencies, and service providers assigned to assist the person to attain those goals; the obstacles to the individual working in CIE; and the services and supports necessary to overcome those obstacles. Career planning needs to be based on person-centered planning principles.<sup>18</sup> The Career Development Plan is the foundational document that describes the person's pathway to CIE and guides the provision of employment services that allow the individual to achieve CIE.<sup>19</sup>

Best practices in career development planning often begin with a Discovery process as an alternative to traditional vocational assessments,<sup>20</sup> and include important people in the person's life and other community members who are not necessarily part of the formal service system. This allows for broader and immediate networking to secure employment opportunities, and usually results in a job in an integrated setting that more closely matches the individual's preferences and strengths.

### **C. Employment Service Planning**

Formal employment service planning is designed to integrate people's career dreams and aspirations in individual service planning documents (e.g., Individual Service Plans, Individualized Education Plans, Individual Plans for Employment) that are intended to describe employment goals

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<sup>17</sup> Presumption of benefit. The designated State unit must presume that an applicant who meets the eligibility requirements in paragraphs (a)(1)(i) and (ii) of this section can benefit in terms of an employment outcome. 34 C.F.R. § 361.42(a)(2).

<sup>18</sup> *Lane v. Kitzhaber*, 841 F. Supp. 2d 1199, 1201 (D. Or. 2012).

<sup>19</sup> For a detailed description of Oregon's Career Development Plan and process, see Teninty, L., Career Development Plan Information Memorandum Transmittal (2017, September 29). Retrieved March 16, 2022, from <http://www.dhs.state.or.us/spd/tools/dd/bpa/IM17043-CDP-Guidance-Instructions.pdf>.

<sup>20</sup> Callahan, Michael. "Using Alternatives to Traditional Vocational Assessment: The Why and How of Exploration Strategies Such as Discovery ." *Marcgold.com*, Marc Gold & Associates, Jan. 2014, Retrieved from: <https://static1.squarespace.com/static/57fa78cd6a496306c83a2ca7/t/5cddbab47f948000018f3baf/1558035125146/Using+Alternatives+to+Traditional+Vocational+Assessment+5-2019.pdf>.



and services in the larger context of service implementation, safeguards, accountability, and fidelity to the person.<sup>21</sup>

## V. Prohibit New Admissions and Close Existing Sheltered Workshops

A critical policy decision and programmatic determination for facilitating integrated employment is whether to continue to fund and support segregated sheltered workshops. As described in the [second paper in this series](#),<sup>22</sup> some states have enacted statutes or issued rules that prohibit the payment of sub-minimum wages, which may have the practical effect of shuttering sheltered workshops without explicitly terminating this service model. Other states have explicitly banned new admissions to sheltered workshops while not simultaneously defunding of all segregated employment settings.<sup>23</sup> Finally, several states have announced the end of all sheltered workshops and any related segregated employment setting, usually with a gradual phase out period to allow for the planned transition of former sheltered workers to CIE. The latter group have usually relied upon both the CMS HCBS Settings Rule,<sup>24</sup> as well as national policy directions and professional literature, to permanently close its sheltered workshops.

Shutting sheltered workshops is a bold but critically necessary action for ensuring that all people with disabilities have the opportunity to work in integrated employment settings. While some opposition to this action is likely, due to misconceptions about people's ability to be successfully employed in the community, states can prepare for and substantially dilute the impact of resistance by carefully planning for this system transformation; developing an effective communication strategy to announce and promote this decision; ensuring that a pathway to CIE is immediately available and accessible for persons who have long been institutionalized in sheltered workshops; and proactively meeting with sheltered workers, their families, workshop providers, concerned stakeholders, and public officials to explain the purpose and gradual implementation of its planned termination of sheltered workshops.

Through the process of addressing the systemic and endemic causes of segregation, as well as the obstacles to achieving integrated employment, States may identify other policy barriers to CIE,

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<sup>21</sup> Oregon self-advocates published their approach to ensuring that employment assessments, plans, and service options reflect their choices and preferences. See Kaaren, L., Davis, D., Sanders, A., Ryan, R., Cassidy, R., & Guedon, G. (2019). *A Personal Guide to Employment*. Oregon Self Advocacy Coalition. Retrieved March 16, 2022 from <https://www.oregon.gov/dhs/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/OSAC-Employment-Guide-2019.pdf>.

<sup>22</sup> See footnote 2, *supra*.

<sup>23</sup> Oregon issued an Executive Order prohibiting all new admissions to its sheltered workshops. See: *Executive Order. No. 15-01, Providing Employment Services to Individuals with Intellectual and Developmental Disabilities*, 2015. See Sec. III, retrieved from [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_15\\_01.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_15_01.pdf).

North Carolina did the same through a Memorandum of Understanding to settle threatened ADA/Olmstead litigation. See: *Memorandum of Understanding Between the NC Dept. of HHS and DRNC*. (2019, February 11). Retrieved from <https://disabilityrightsnc.org/wp-content/uploads/2019/04/MOU-Signed.pdf>. See footnote 3, *supra*.

<sup>24</sup> Since the Rule only applies to federal Medicaid funding, states that pay for their segregated employment settings exclusively with local appropriations will not be able to rely upon its mandate to justify a closure policy. Center for Medicare & Medicaid Services, and Cindy Mann. *Final Rule - CMS 2249-F – 1915(i) State Plan Home and Community-Based Services, 5-Year Period for Waivers, Provider Payment Reassignment, Setting Requirements for Community First Choice, and CMS 2296-F 1915(c) Home and Community-Based Services Waivers*, 2014. Retrieved from <https://www.medicaid.gov/federal-policy-guidance/downloads/cib-01-10-14.pdf>.



such as strict income limits for Medicaid for workers with disabilities, which require change as they move toward a more employment and earnings supportive system.

## **VI. Conclusion**

To actualize meaningful CIE for everyone, advocates, professionals, providers, and stakeholders must ensure that their state's employment service system includes the four components described above. The final paper in this series will describe the remaining seven components of an effective integrated employment system necessary for successfully advancing competitive integrated employment.

