

**Texas *Employment First* Policy
and
Texas *Employment First* Task Force
Report**

**As Required by
Senate Bill 1226
83rd Legislature, Regular Session, 2013**

Fall 2014

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Executive Summary

Senate Bill 1226 (S.B. 1226), 83rd Legislature, Regular Session, 2013, promotes employment for individuals with disabilities by establishing an Employment First policy for the state of Texas and also creating an Employment First Task Force (the Task Force). Advocates and agencies worked together to promote an understanding of Employment-First during the 83rd Texas Legislature that led to passage of S.B. 1226. This bill established employment as the first and preferred option for working-age Texans with disabilities, and also established the interagency Task Force to promote competitive employment of individuals with disabilities and the expectation that individuals with disabilities are able to meet the same employment standards, responsibilities, and expectations as other working-age adults (Texas Government Code Section 531.02448(a)).

“Employment First” is an approach to facilitating the full inclusion of individuals with disabilities in the workplace. This approach states that integrated, competitive employment should be the first option considered for individuals with disabilities and should be the expected outcome of education and publicly-funded services for working-age youth and adults. Earning a meaningful income is a great equalizer in our society. Where we work is often where we make friends, demonstrate our abilities, and earn enough disposable income to enjoy other opportunities.

Individuals with disabilities are much less likely to have a job than individuals without disabilities. In June of 2014, about 63% of working-age Americans were employed.¹ By contrast, only 36% of people with disabilities in the United States are employed and only 23.4% of people with cognitive disabilities. Data for Texans with disabilities is similar.

The Task Force is responsible for developing recommendations for policy, procedure, and rule changes that are necessary to allow the Employment-First policy to be jointly adopted and implemented by the Health and Human Services Commission (HHSC), Texas Education Agency (TEA), and Texas Workforce Commission (TWC). The Task Force is also responsible for preparing a report before each regular legislative session summarizing Task Force findings and recommendations. This report may include:

- Information that reflects the potential and actual impact of the Employment-First policy on the employment outcomes for individuals with disabilities; and
- Recommendations for improvement of employment services and outcomes, including employment rates, for individuals with disabilities based on the reported impact of an Employment-First policy that may include:
 - Recommendations relating to using any savings to the state resulting from the implementation of the Employment-First policy to further improve the services and outcomes; and

¹ According to the U.S. Bureau of Labor Statistics: “In June, the civilian labor force participation rate was 62.8 percent for the third consecutive month.” United States Department of Labor, Bureau of Labor Statistics, Employment Situation Summary, available online at: <http://www.bls.gov/news.release/empsit.nr0.htm> (accessed on July 30, 2014).

- Recommendations regarding necessary policy, procedures, and rule changes for the improvement of employment services and outcomes.

The Task Force is also charged with designing an education and outreach process targeted at working-age individuals with disabilities, including young adults with disabilities, the families of those individuals, services providers, and state agencies that provide employment and other services and supports to individuals with disabilities.

This is the first report of the Task Force. It is the result of significant work by self-advocates, family members, representatives of provider and advocacy organizations, and representatives of state agencies working together to find ways to enhance employment services and supports available to Texans with disabilities. Much work remains, but this report represents an exciting beginning.

Background

Employment is a fundamental value and aspiration in American culture. All people, including those with disabilities, gain many benefits from having a job. People are healthier, safer and happier with meaningful work. They have relationships with co-workers, fewer health issues, and an increased sense of well-being. They report a greater sense of accomplishment, increasing their feelings of competence and self-worth, and contribute to the economy. Many people with disabilities live at or below the poverty level, and earning income from paying jobs helps supplement their resources and improves the quality of their lives.²

Employment First is a mindset that says integrated competitive employment should be the expected outcome for people with disabilities. Federal and state policy has paved the way to support opportunities for people with disabilities to have meaningful jobs in their communities.³ Employment First efforts have been identified in 42 states. The wide range of attention and emphasis on Employment First is encouraging, and provides a potential catalyst for the long needed increase in workforce participation for individuals with disabilities. With an increasing emphasis on integrated employment and an Employment First philosophy, the nation is poised for transformation that could put Americans with disabilities on a path out of poverty and towards self-sufficiency.⁴

In Texas, S.B. 1226 established the Employment First Task force to promote competitive employment of individuals with disabilities and the expectation that individuals with disabilities are able to meet the same employment standards, responsibilities, and expectations as any other working-age adult. (Sec. 531.02448(a))

The Task Force will develop recommendations for policy, procedure, and rule changes that are necessary to allow the Employment First policy required to be jointly adopted and implemented by the HHSC, TEA and TWC. The Task Force will prepare a report by September 1st of each even-numbered year regarding the Task Force's findings and recommendations.

Public Task Force members were selected after an application process and agency representatives were appointed by agency heads as directed in the legislation. The Task Force began meeting monthly in April 2014. Since that time, the Task Force has reviewed employment related activities of each of the agencies represented on the Task Force and had considerable discussion about various issues related to how individuals with disabilities can access services and supports that lead to meaningful, gainful employment opportunities.

Members of the Task Force are shown in the following table.

² Stenning, Rhode Island Employment First Policy: A Time for Action, 2013

³ Kiernan, Hoff, Freeze, & Mank, 2011; National Association of Councils on Developmental Disabilities, 2011

⁴ Butterworth, et al., State Data: The National Report on Employment Services and Outcomes, 2013

Name	Organization, Title	Task Force Member Category*	City
Public Members			
Roger Webb, <i>Chair</i>	Texas Council for Developmental Disabilities, <i>Executive Director</i>	Advocate	Austin
Carline Geiger, <i>Vice Chair</i>	Texas Department of Assistive and Rehabilitative Services (DARS), Rehabilitation Services, <i>Program Manager</i>	DARS	Austin
Darren Bates	National Disability Institute, <i>National Workforce Strategist</i>	Individual	Austin
Shaun Bickley	Texas Advocates, <i>Self-Advocate Coordinator</i>	Individual	Austin
Chris Botello	Target, <i>Cashier</i>	Individual	Austin
Luis Enrique Chew	Upper Rio Grande Workforce Development Board, <i>Board Member</i>	Individual	El Paso
Diego Demaya	Memorial Hermann Healthcare System, Independent Living and Resource Utilization Division, Southwest ADA Center, <i>Director of ADA Technical Assistance and Human Resources Consultant</i>	Individual	Houston
Norine Jaloway Gill	The Arc of Texas, <i>Governmental Affairs Committee Chairperson</i> University of North Texas, Workforce Inclusion and Sustainable Employment, <i>Lead Instructor</i>	Family	Seabrook
Carla Johnson	Education Service Center Region 11, <i>State Lead, Secondary Transition/Post-School Results; Educator</i>	Advocate	Fort Worth
Kendra Kerbow	MHMR of Tarrant County, Advocacy and Support Services, <i>Service Liaison</i>	Individual	Fort Worth
Tanya Lavelle	Easter Seals Central Texas, <i>Senior Manager of Advocacy</i>	Provider	Austin
Linda Levine	Texas Parent to Parent, <i>Board Member</i> APSE- Association of People Supporting Employment First, <i>Member</i> Autism Society of America and Autism Society of Central Texas, <i>Member</i> HHSC IDD System Redesign Advisory Committee, <i>Member</i> HHSC Consumer Directed Workgroup, <i>Chair of Service Expansion Committee</i>	Family	Bee Cave

Linda Litzinger	Texas Parent to Parent, <i>Public Policy Specialist</i>	Family	Austin
Stephanie Myers	Texas Governor's Committee on People with Disabilities, <i>Research Specialist</i>	Individual	Austin
Elaine Roberts	Dispute Resolution Center, <i>Executive Director</i>	Individual	The Woodlands
Leah Rummel	United Healthcare Community Plan/Insurance Company	Employer	Austin
Stephanie Sokolosky	Governor's Committee on Autism and Pervasive Developmental Disabilities, <i>Vice Chair</i>	Provider	Harlingen
Lori Williams		Individual	San Antonio
Robert Williams	Easter Seals of Greater Houston, <i>Supported Employment Program Manager</i>	Family	Houston
Laurie Biscoe	Texas Workforce Commission (TWC), Workforce Development Division - Programs, <i>Deputy Director</i>	TWC	Austin
Reese Carroll	Texas Department of State Health Services (DSHS), <i>Program Specialist</i>	DSHS	Austin
Donna Jessee	Texas Department of Aging and Disability Services (DADS), Center for Policy and Innovation, <i>Director</i>	DADS	Austin
Cindy Swain	Texas Education Agency (TEA), Special Education Support Services, <i>Manager</i>	TEA	Austin
Sheila Williams	Texas Department of Family and Protective Services (DFPS), <i>Lead Hiring Specialist</i>	DFPS	Austin
April Young	Texas Health and Human Services Commission (HHSC), Office of Health Policy and Clinical Services, <i>Policy Analyst</i>	HHSC	Austin

* Individual = Individual with a disability

Family = Family member of an individual with a disability

Advocate = Advocate for individuals with disabilities

Provider = Representative of a provider of integrated and competitive employment services

Employer = Employer or representative of an employer in an industry in which individuals with disabilities might be employed

Employment First Policy

S.B. 1226 established Employment First as the state's policy for people with disabilities:

Sec. 531.02447 (a). It is the policy of the state that earning a living wage through competitive employment in the general workforce is the priority and preferred outcome for working-age individuals with disabilities who receive public benefits.

Sec. 531.02447 (b). The Health and Human Services Commission (HHSC), the Texas Education Agency (TEA), and the Texas Workforce Commission (TWC) shall jointly adopt and implement an employment-first policy in accordance with the state's policy under Subsection (a). The policy must:

- (1) affirm that an individual with a disability is able to meet the same employment standards as an individual who does not have a disability;
- (2) ensure that all working-age individuals with disabilities, including young adults, are offered factual information regarding employment as an individual with a disability, including the relationship between an individual's earned income and the individual's public benefits;
- (3) ensure that individuals with disabilities are given the opportunity to understand and explore options for education or training, including postsecondary, graduate, and postgraduate education, vocational or technical training, or other training, as pathways to employment;
- (4) promote the availability and accessibility of individualized training designed to prepare an individual with a disability for the individual's preferred employment;
- (5) promote partnerships with employers to overcome barriers to meeting workforce needs with the creative use of technology and innovation;
- (6) ensure that the staff of public schools, vocational service programs, and community providers are trained and supported to assist in achieving the goal of competitive employment for all individuals with disabilities; and
- (7) ensure that competitive employment, while being the priority and preferred outcome, is not required of an individual with a disability to secure or maintain public benefits for which the individual is otherwise eligible.

Vision and Principles for Employment First

Texas Promoting Independence Advisory Committee (PIAC) was established in 2000 in response to the U.S. Supreme Court's Olmstead decision. The PIAC, which provides recommendations to HHSC and other agencies concerning community-based activities and options, established an Employment Subcommittee in 2011 to provide input on employment related activities. The Subcommittee adopted an Employment First Vision and Principles in March 2013. The Employment First Task Force reviewed and adopted the Subcommittee's Vision and Principles at its meeting in May 2014.

Employment First in Texas

Integrated and competitive employment is the primary goal and priority for citizens using publicly funded services regardless of disability or level of disability.

Guiding Principles for Employment First in Texas

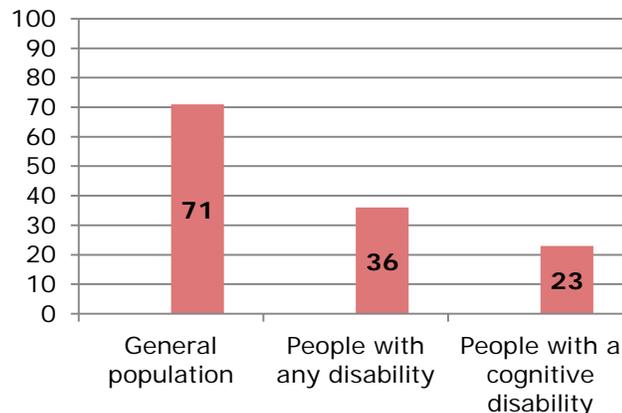
1. It is important for Texas that working-age adults with disabilities contribute to the economy, become a part of the workforce and be as self-sufficient as possible.
2. It is also important that young people with disabilities have integrated work experiences that prepare them to transition into the workforce and become as self-sufficient as possible.
3. It is presumed that all working-age adults and youth with disabilities can earn competitive wages working in jobs fully integrated within the general workforce and have the right to pursue the full range of available employment opportunities.
4. Meaningful, paid work is significant to the quality of life for the majority of working-age adults, including individuals with disabilities. Benefits include the following:
 - Ability to earn and keep competitive wages resulting in the opportunity for disposable income;
 - Development and expansion of relationships;
 - Identity as a competent and contributing member to one's community;
 - Full inclusion in all aspects of community life;
 - Increased health and safety through greater visibility in the community;
 - Increased self-esteem;
 - The power and choice to pursue desired lifestyles, beyond what services can provide; and
 - Acquisition of skills that allows the development of a career path.
5. Anyone who wants to be employed should receive education, training, and employment services and supports for as long as needed to obtain and maintain integrated, competitive employment, regardless of disability or level of disability.
6. Individual preferences and informed choice drive the process to result in job options and career opportunities, including the nature of support provided.
7. All state agencies that fund or provide employment, vocational, or transition services and supports for persons with disabilities have a shared responsibility to implement Texas' Employment First principles. This will require partnerships, vision, and creativity to overcome perceived or real barriers to employment.

Employment Data and Statistics

Employment Participation for Working-Age People (Ages 16-64) in Texas					
	2008	2009	2010	2011	2012
Number of people with no disability	13,904,846	14,148,299	14,529,459	14,757,263	14,970,290
Number of people with any disability	1,553,357	1,533,590	1,581,813	1,611,249	1,635,124
Number of people with a cognitive disability	599,605	607,607	627,019	626,576	647,123
Number of people with no disability who are employed	10,394,751	10,191,152	10,275,151	10,427,234	10,650,862
Number of people with any disability who are employed	642,801	588,750	584,067	581,870	588,966
Number of people with a cognitive disability who are employed	177,742	158,376	154,851	152,032	151,644
Percentage of people with no disability who are employed	74.8%	72.0%	70.7%	70.7%	71.1%
Percentage people with any disability who are employed	41.4%	38.4%	36.9%	36.1%	36.0%
Percentage of people with a cognitive disability who are employed	29.6%	26.1%	24.7%	24.3%	23.4%

Source: American Community Survey (ACS) as published in *State Data: The National Report on Employment Services and Outcomes* (2013)

Percentage of Working-Age Population in Texas Employed in 2011



Source: American Community Survey (ACS) as published in *State Data: The National Report on Employment Services and Outcomes* (2013)

Recommendations

The following policy recommendations were approved by the Task Force for consideration by the Legislature and state agencies. Most were supported by a consensus of Task Force members although representatives of state agencies abstained on some recommendations as requested by their agencies.

Recommendation for Legislative Action

- A. Establish an inter-agency task force to develop strategies for State agencies to become model employers of individuals with disabilities. Strategies may include:
 - Improving organizational readiness and creating welcoming environments for employees with disabilities,
 - Conducting proactive and targeted recruitment and outreach efforts,
 - Improving the accessibility of the employment application and hiring process,
 - Improving access to reasonable workplace accommodations for new and current state employees, and
 - Establishing targets to increase the number of people with disabilities working in state government.
 - B. Support self-employment and small business ventures by people with disabilities by amending the Texas Government Code to redefine the category of “economically disadvantaged person” (currently limited to women, racial minorities, and veterans with service-connected disabilities) to include civilians with disabilities for purposes of recognizing some businesses as “Historically Underutilized Businesses” for preferential treatment in government contracting.
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Recommendations to the Texas Health and Human Services Commission (HHSC), the Texas Education Agency (TEA), and the Texas Workforce Commission (TWC)

- A. Adopt and implement an Employment First Policy as stated in S.B. 1226. The Task Force also recommends HHSC, TEA, and TWC adopt and implement the Vision and Principles approved by the Task Force in conjunction with the Employment First policy. The Task Force respectfully asks for opportunities to review and comment on agency implementation policies or procedures before final adoption.
- B. Develop a methodology, with broad agency and stakeholder input, to track services and employment outcomes for people with disabilities across agencies.
For each of the following settings, data should include number of participants, average hourly wages, and whether participants receive benefits:
 - Individual competitive job
 - Individual contracted job
 - Group integrated job
 - Self-employment

- Facility-based / sheltered work
 - Community-based non-work
 - Facility-based non-work
 - C. Expand the number of employers interested in hiring people with significant disabilities by developing and disseminating information and training materials about common reasonable accommodations, tax incentives, best practices and benefits of employing people with disabilities.
 - D. Develop a statewide business advisory committee, in partnership with the Governor's Committee on Persons with Disabilities, focused on promoting employment first policies and expanding employment opportunities through partnerships with state agencies.
 - E. Identify and/or develop model practices for recruiting and selecting employees with disabilities and provide information and training to employers.
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Recommendations to the Health and Human Services Commission (HHSC) and Texas Employment Agency (TEA)

- A. Develop models /examples of different program options that are allowable and responsive for:
 - students receiving special education services;
 - youth and adults receiving waiver services;
 - individuals supported with a combination of vocational rehabilitation and other services and supports.

(Models may include trial work experiences; customized employment; small businesses; self-employment; using Consumer Directed Services options in waivers, etc.)
 - B. Develop information for students, adults and families about the impact of employment on benefits and how work incentives can be utilized (including Social Security work incentives).
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Recommendations to the Health and Human Services Commission (HHSC), Department of Aging and Disability Services (DADS) and Department of Assistive and Rehabilitative Services (DARS)

- A. Provide guidance regarding coordination of employment assistance and supported employment Medicaid waiver services with DARS vocational rehabilitation services, so that the individual receiving services experiences a seamless transition between agencies/providers as needed.
 - Agency staff and providers should create a written plan that ensures seamless transition of services between agencies.
 - Models for promising practices should be developed and shared with providers.

- Training should be provided for managed care organizations, DADS case managers and/or service coordinators, DARS vocational rehabilitation counselors and providers on the basic components of Employment Assistance and Supported Employment. Training information and materials should be standardized to ensure all parties receive the same information.
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Recommendations to the Health and Human Services Commission

- A. Establish goals to increase the number of individuals in integrated, competitive employment and to decrease the number of individuals in workshops earning sub-minimum wage.
 - B. Develop technical assistance and financial incentives for workshop providers to convert services to supported, competitive employment.
 - C. The Task Force recommends HHSC enterprise agencies develop and implement an ongoing rigorous staff training and development initiative for front-line service delivery staff to implement employment services and supports in a way that will achieve integrated competitive employment outcomes.
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Recommendations to the Department of Aging and Disability Services (DADS)

Discussion and recommendations regarding DADS Medicaid waivers originated in the PIAC Subcommittee on Employment. Much of the work stemmed from the passage of Senate Bill 45 (S.B. 45), 83rd Legislature, Regular Session, 2013, which provided for the provision of employment assistance and supported employment in all of the Medicaid waiver programs. The Subcommittee was discontinued with the establishment of the Task Force; however, the Subcommittee's work was furthered in the Task Force's Workgroup on Employment Services in Medicaid Waivers. The workgroup met twice to focus on ways to improve communication and process flow for individuals seeking employment benefits in Medicaid waivers. The Subcommittee's recommendations are presented below.

- A. Service Coordinators and Case Managers should inform waiver program recipients on the availability of a person-centered planning (PCP) process as an Employment Assistance service delivery option. The PCP process includes discovery about employment options and planning for desired outcomes.
 - Person-centered planning should be included in the development of the service plan and individual budget.
 - STAR+PLUS waiver employment services providers should be able to review a member's individual service plan information in its entirety, as allowed by the Health Insurance Portability and Accountability Act (HIPPA).
- B. Data reported by employment service providers should include individual outcomes data, including:

- Place of employment and general job category
 - Wages the individual is making,
 - The number of hours working per week,
 - Services provided including collaboration with other agencies,
 - Benefits counseling, use of work incentives, and retention of Medicaid insurance
- C. The Task Force recommends a provider payment structure that incentivizes a collaborative approach to integrated, competitive employment outcomes.
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Recommendations to the Department of Assistive and Rehabilitation Services (DARS)

Some members of the Task Force and other interested parties participated in two workgroup meetings which initially focused on DARS eligibility criteria for vocational rehabilitation services. In addition to the eligibility criteria, discussions also focused on service delivery, communication and training, and partnerships leading to employment outcomes.

These workgroups were formed based on direct input from parents, advocates, and consumers of DARS. The results of these workgroup meetings were recommendations for DARS which will hopefully enhance service delivery to consumers with disabilities.

The following recommendations are grouped by similar topics, and are offered for consideration by DARS executive management:

A. Eligibility

1. DARS should modify the Rehabilitation Policy Manual to ensure staff compliance with the policies pertaining to all eligibility criteria including presumption of eligibility for Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) recipients and extended evaluation, and Employment-First policies for all eligible persons (see Appendix for DARS Division for Rehabilitative Services and Division for Blind Services eligibility criteria).
2. Prior to rendering a decision of ineligible based on the severity of the disability, DARS counselors should refer cases for a second review to staff with specialized expertise related to the specific disability of the applicant

B. Communication/Training

1. For all DARS counselors and contracted providers who provide employment services, DARS should require and provide training on employment first policies, cultural disability competency training, and appropriate methods for assessing, evaluating, and communicating with persons with significant specific disabilities such as autism, physical, mental health and intellectual disabilities. DARS should ensure contracted providers meet established contract requirements for credentialing and include trained and experienced job coaches, job placement providers, and supported employment providers wherever geographically available to work with those with all levels of disabilities, including persons with significant disabilities.

2. DARS Central Office Program Specialists should expand guidance and oversight to staff in disability specific areas which will facilitate exploration of strategies for achieving employment outcomes for those with significant disabilities. Strategies should include: serving as a resource and providing technical assistance to counselors, developing best practices with specific disability groups (recommend appropriate testing based on the consumer's disability) such as autism, non-verbal consumers, and consumers with significant physical and behavior health disabilities. Technical assistance should also be given in developing job trials, discovery, and developing a plan for employment in an integrated setting which is unique to the consumer.
3. Require all DARS counselors and employment services providers to obtain training in and implement the Discovery Process through the Customized Employment Process (see Appendix E for definition of Customized Employment) to assist someone to obtain a job which requires the need to do a very specific job interest interview and trial employment options.

C. Service Delivery

1. Increased emphasis on accountability pertaining to taking applications, determining eligibility, and plan development. This includes, but is not limited to:
 - a. Adherence to agency timelines concerning responses to persons applying for services, including written notification of key steps in the rehabilitation process-eligibility determinations, copy of the Individualized plan for employment, and notification of the right to request a due process hearing.
 - b. Provide copies of DARS purchased evaluations and testing, upon request and in the manner indicated appropriate by the provider.
 - c. Timely communication with the consumer throughout the rehabilitation process.
 - d. Providing the consumer with a comprehensive explanation of services offered, informed choice of service providers, and an explanation of applicable policies.
2. DARS should develop and focus on an individualized approach for counselor's use in compliance with employment first policies in completing a comprehensive assessment to include reviewing all available and purchased assessments and evaluations with the consumer unless contraindicated by the provider.
3. DARS should clarify the supported self-employment policy, and assist the consumer through the supported self-employment process.
4. DARS should revise policy to clarify the following:
 - a. Ability to provide employment services such as job coaching during a job trial or volunteer position (with the goal of leading to a paid position);
 - b. Ability to provide employment services for individuals in employment positions found without DARS assistance;
 - c. Ability to provide employment services while a consumer is receiving vocational or academic training, i.e., during a school break.
 - d. Ability to apply employment first policies and provide services to eligible consumers even if they need personal care assistance.

D. Partnerships

1. DARS should enhance partnerships with local workforce boards and workforce centers to increase knowledge of labor market information and trends in vocational training, and to provide informed employment options to consumers.
2. DARS' Business Relations Specialists should continue to educate staff about outreach to employers and development of business relationships that will have a positive impact on consumer employment.
3. DARS and DADS should provide training to staff to enhance partnering and collaboration opportunities. Training should focus on coordination of long-term supports available from DADS for consumers who will require extended services following case closure with DARS. This will result in a "seamless transition" of employment services and supports between DARS and DADS. It may include using the same job coach to continue with the consumer following case closure with DARS.

E. Reporting

1. DARS should expand and publish data collection to include the following measures for consumers with significant disabilities:
 - a. Total number of days to determine eligibility
 - b. Total number of consumers determined eligible
 - c. Total number of consumers determined ineligible
 - d. Total number of consumers who have achieved competitive, integrated employment
 - e. Total number of months of maintaining competitive employment prior to successful closure
 2. DARS should establish a category for those whose needs are considered higher than the category of those classified as "significant disabilities" and report the same information above.
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Recommendations to the Department of State Health Services (DSHS)

- A. Strengthen and enhance relationships with all the HHSC Enterprise Agencies (DARS, DADS, DFPS) as well as the Texas Education Association (TEA) and the Texas Workforce Commission (TWC) with the intent of improving existing affiliations and discovering new ways to partner and collaborate across agencies in order to improve service delivery to mutual persons served.
- B. Complete the memorandum of agreement (MOA) between DSHS and DARS by the end of calendar year 2014. Completion of the MOA will coincide with the development and implementation of a shared service pilot project to develop service alignment and coordination.
- C. Research, develop, and implement meaningful, data supported targets and outcomes for supported employment that will apply to all levels of care.

- D. Examine the feasibility and practicability of including supported employment as a ‘core’ service for all levels of care, taking into consideration the current limitations restricting the availability of funding for the full array of needed supported employment services.
 - E. Develop and implement a strategy to ensure all practitioners providing Individual Placement and Support (IPS) are trained in this Evidence-Based Practice (EBP) and the Local Mental Health Authorities (LMHA) maintain fidelity to the EBP model.
 - F. Develop and implement a strategy to provide oversight which ensures the Local Mental Health Authorities (LMHA’s) are in compliance with Information Item H of their Performance Contract, *Development of the Clients Benefit Plan* to ensure people are supported through the entire process of accessing SSI, SSDI, Medicaid, DARS services, and other benefits for which they are eligible.
 - G. Remain aware of and take full advantage of the planned Medicaid State Plan Amendment, should it be approved, as well as any waiver plans, which provide reimbursement to the LMHA’s for the expanded array of supported employment services not currently reimbursed by Medicaid.
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Recommendations to Improve Education Services for Students with Disabilities

In 2013, the Texas Local Education Agencies (LEAs) served 441,633 students with disabilities from ages 3-21. A total of 151,740 students between the ages of 14-21 received services in general and special education classrooms, career and technology education classrooms, community-based instruction, supported employment, and part and full-time employment. Although TEA does not provide employment services to individuals, it does play a vital role in providing transition services to students with disabilities between the ages of 14-21 with the goal being college and career readiness based on the individual needs of each student.

TEA has identified three areas of “disconnect” which impede successful employment outcomes for students receiving services/supports from TEA including: (1) Following up with every student after graduation; (2) Coordination of efforts with state agencies to support transition planning, vocational, and independent living needs for students with disabilities and (3) Transportation and other ancillary services needed by students with disabilities to seek, obtain and maintain employment.

The Transition and Employment Workgroup therefore recommends that Texas Education Agency, jointly with other agencies and stakeholders:

- A. Create a plan to identify and publicize evidence-based practices currently utilized by school districts to provide quality transition plans and programs which ensure college or career readiness for each student with disabilities between the ages of 14-21 or younger, if appropriate. Disseminate this information to parents, students, and other school districts through recorded webinars, panels of experts in the field, conferences, and stakeholder meetings.
- B. Provide companion training and guidance related to the Texas Transition and Employment Guide for transition designees, parents, students, school counselors,

- potential employers, higher education, on Employment First policy as it applies to state agency coordination, transportation, and types of employment services, for all students with disabilities between the ages of 14-21;
- C. Promote the implementation of evidence-based practices in terms of integrated vocational and situational assessments, trial work experiences, and transportation/support services to help students seek, obtain and maintain employment.
 - D. Create a plan to ensure appropriate state agency staff participates in the coordination of services required to support transition planning, vocational counseling, and independent living needs, and in defining for families who is responsible for ongoing services for students with disabilities.

The federal Rehabilitation Act and regulations for vocational rehabilitation services require TEA and DARS services to have a formal interagency agreement to facilitate the transition of youth with disabilities from public school to post-school activities, including vocational rehabilitation services. Additionally, recent passage of the Workforce Innovation and Opportunity Act (WIOA) includes an emphasis on assisting youth with disabilities, including creating pre-employment transition services as a vocational rehabilitation service, and requiring a minimum level of spending on this new service.

The Task Force therefore recommends that TEA and DARS:

- A. Disseminate or make available the current formal interagency agreement regarding transition of youth with disabilities from public school to post school activities, including vocational rehabilitation services.
- B. Brief advisory bodies on new federal policy guidance and passage of the WIOA and present issues of reviewing and updating of the interagency agreement; and
- C. Identify and assemble a joint work group of relevant agency staff, advisory body members, and interested stakeholders to begin process of review and development of recommendations for formal interagency agreement.

On March 7, 2014, the governor-appointed Continuing Advisory Committee (CAC) on Special Education submitted recommendations to the TEA designed to improve services for students with disabilities ages 18-22 (also known as 18+ programs). The CAC identified several barriers to providing quality, community-based vocational training, part-time employment, or independent living skills instruction in adult, rather than classroom, environments. Among the barriers identified were seemingly confusing instructional arrangement codes in the Public Education Information Management System (PEIMS) and funding schemes that may discourage instruction that takes place away from the school's main campus.

The Task Force recommends the following changes related to education services for students with disabilities ages 18-22. Some of these changes may require legislative action, while others may be able to be achieved at the agency level.

- A. Increase ease of tracking students enrolled in 18+ special education programs through the creation of a PEIMS instructional arrangement code specific to this cohort.

1. The code should be based on hours per week and not hours per day, to allow for flexibility in scheduling (e.g. to accommodate that some services may be best provided on evenings or weekends).
 2. The code should allow for community-based employment or educational services provided by a paraprofessional, educational aide, or job coach to count as instructional time, if supervised by a certified teacher.
 3. The additional PEIMS codes should accurately identify:
 - Where (in what settings) students are receiving services;
 - How long they are receiving a particular service;
 - Who is providing the service; and
 - What activities they are doing while in a particular setting.
 - B. Create a funding weight for the above instructional code that does not penalize school districts for allowing eligible students to continue to receive special education services until age 22, rather than graduating around age 18.
 - C. Establish arrangements that will allow for the 18+ cohort's data to be kept separate from data used to calculate Adequate Yearly Progress (AYP), thus preventing school districts from incurring any negative effects under the AYP system for offering services to this cohort.
 - D. Provide guidance to school districts and Education Service Centers about 18+ programs, including providing answers to frequently asked questions and information about coding, ARD committee membership, and grading.
 - E. Report back to the CAC on a regular basis to update progress on addressing the 18+ issues raised by the CAC and continue to seek feedback and recommendations from the CAC.
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Recommendations to the Texas Workforce Commission (TWC)

A. Data Collection/Reporting and Public Awareness

1. Research and analyze the services that are provided to individuals with disabilities. Identify the workforce system service strategies (e.g., self-service, staff-assisted services, training, coordinated services with partner agencies) that have the most successful results based on individuals being employed at the time of exit from services. Make the research and analysis available to the public.
2. Develop public awareness strategies to inform individuals with disabilities about regional labor market information, regional and state level stakeholder meetings, and employment services available through the workforce system.

B. Identify Effective Practices at the Local Board Level and Improve Education and Coordination across Agencies

1. Identify and share effective practices across local workforce development boards that improve access to and the delivery of services to individuals with disabilities, with the

goal of ensuring that individuals with disabilities are aware of workforce services available through the local workforce solutions offices.

2. Establish disability employment committees for all Local Workforce Development Boards to focus on policy relating to serving individuals with disabilities.
3. Establish information sharing and educational opportunities between state agencies (TEA, DARS, DADS, DSHS, HHSC and DFPS) and colleges/universities to ensure that appropriate referrals may be made and coordination of services among agencies in serving individuals with disabilities.
4. In consideration of the passage of the WIOA, TWC and DARS should work together to identify and implement revisions to services and policy to fully implement the spirit and intent of that law.

C. Enhance Staff Knowledge and Skills and Leverage Community Partnerships in Delivery of Services to Individuals with Disabilities

1. Strengthen the delivery of services to individuals with disabilities by providing education, training, and information sharing with local workforce solutions office staff in the following areas:
 - a. Transportation options available to people with disabilities;
 - b. Impact of employment and wages on the availability of SSI/SSDI benefits and availability of work incentives;
 - c. Availability of and coordination with Community Work Incentive Coordinators or other benefit counselors;
 - d. Resources and technical assistance available through the Job Accommodation Network, the Employer Assistance and Resource Network, and other governmental online resources for employers and job seekers;
 - e. Awareness of various types of disabilities (physical, cognitive, sensory, and mental disabilities);
 - f. Accommodations for individuals with various types of disabilities (physical, cognitive, sensory, and mental disabilities); and
 - g. Confidentiality of medical records and best practices/times for seeking reasonable accommodation under state and federal disability laws.
2. Cross train community partners to enable each partner to (1) make referrals for services not available by one partner and (2) provide coordinated services across multiple state agencies or partners.
3. Establish and publicize grant opportunities for partnerships with public and private resources (e.g., Disability Mentoring Day) to improve services to individuals with disabilities.
4. Ensure that at least one staff person in each local workforce solutions office has workforce and disability experience and expertise and is designated to assist persons with disabilities in accessing and using employment services available through the offices and partner organizations.

D. Enhance Coordination of Services to Employers

1. Provide training to all agency partners serving individuals with disabilities regarding the provision of workforce services to employers, education of employers regarding employment of individuals with disabilities (including available tax incentives), and identify strategies for coordination of services by agency partners for employers in a local area.
2. Share regional TWC labor market information with all agency partners serving individuals with disabilities.
3. Share information with employers regarding accommodations that have allowed for successful employment of individuals with disabilities through communications (including videos) to Chambers of Commerce and employer groups and associations.

Recommendations Concerning Sub-Minimum Wage Employment

Overview: Texas currently has 113 employers who utilize the 14(c) exception to the Fair Labor Standards Act and pay “sub-minimum wages”¹ to individuals with disabilities working in sheltered workshops² or enclaves (i.e., segregated work areas on an employer’s worksite). Sheltered workshops/enclaves typically do not: (1) promote full inclusion of persons with disabilities as required by the Americans with Disabilities Act of 1990 (ADA); (2) teach readily transferrable or relevant work skills; and/or (3) provide wages which allow workers to break the cycle of poverty.³ Review of documentation presented to the EFTF indicates that some workers with disabilities earn less than 10 cents per hour, including individuals who make between 1 ½ cents and 5 cents per hour despite working for a highly profitable local business.

The Task Force therefore recommends the following:

A. End Segregated Employment and Sub-minimum Wage for People with Disabilities

1. By September 1, 2016, Texas should ensure that all workers for state set-aside contracts or state employees who are paid by state agencies are paid at least minimum wage.
2. By September 1, 2016, HHSC and the HHS Enterprise agencies should adopt a State System Care Plan which prohibits the use of state funds for services provided to recent high school graduates in sheltered workshops or enclaves.
3. By September 1, 2016, HHSC and the HHS Enterprise agencies should adopt a State System Care Plan which provides for funding programs to convert sheltered workshop/enclave work programs to individualized, community based employment services.
4. By September 1, 2019, HHSC and the HHS Enterprise agencies should adopt a State System Care Plan which prohibits the use of state funds for programs offered in sheltered workshops and enclaves.

B. Promote and Facilitate Integrated and Comparable Wage Employment Alternatives

1. DARS should conduct outreach to persons currently in sheltered workshops or enclaves to determine what services, reasonable accommodations or assistive technology are needed in order to increase participants marketable job skills, productivity and community based work options or other support programs.
2. TEA should implement appropriate, transition planning for students with disabilities who are at least fourteen (14) years of age to identify and promote community-based work skills, supports and employment options.
3. Texas should establish financial assistance and incentives to employers who place employees with disabilities in integrated work environments at comparable wages or convert segregated employment to supported employment opportunities.
4. By September 1, 2017, Texas should enact state policies to ensure the outreach, hiring and retention of persons with disabilities in integrated work environments at comparable wages in state government positions.

C. Increase Protections for Persons with Disabilities in Segregated Work Settings

1. Texas should increase state funding to fully implement person-centered vocational planning statewide.
2. Texas should provide additional funding for the investigation of violations and abuses in segregated and sub-minimum wage environments.

¹ “[Section 14(c) of the Fair Labor Standards Act allows employers to pay individuals less than the minimum wage if they have a physical or mental disability which ‘impairs their earning or productive capacity.’” National Disability Rights Network, “Segregated & Exploited: The Failure of the Disability Service System to Provide Quality Work” (2011), p6.

² Sheltered works include: “...workshops, affirmative industries, training facilities and rehabilitation centers which congregate large number of people with disabilities and claim to be providing rehabilitation geared toward transition to the general labor market by providing activities which typically involve repetitive tasks....” National Disability Rights Network, “Segregated & Exploited: The Failure of the Disability Service System to Provide Quality Work” (2011), p6.

³ Ibid.p8.

Appendix A. Definition of Disability and Basic Eligibility Criteria

Department of Assistive and Rehabilitative Services Division for Rehabilitative Services

Per Rehabilitation Policy Manual (RPM) 11.2.1, the consumer's primary disability is the physical or mental impairment that results in a substantial impediment to employment, for the Vocational Rehabilitation (VR) program.

AND, per RPM 3.3, Basic Eligibility Criteria for the VR program is:

To decide whether a consumer is eligible for VR services, you must

- determine that the consumer has a physical or mental impairment; (first criterion);
- determine that the impairment constitutes or results in a substantial impediment to employment (second criterion);
- establish that the consumer requires VR services to prepare for, enter, engage in, or retain gainful employment consistent with the consumer's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice (third criterion); and
- presume that the consumer can achieve an employment outcome, unless an extended evaluation demonstrates by clear and convincing evidence that the consumer cannot achieve an employment outcome because of the severity of the consumer's disability. (fourth criterion)*

* Based on 34 CFR Section 361.42(a)(1)

Appendix B. Establishing the Significance of Disability

Department of Assistive and Rehabilitative Services Division for Rehabilitative Services

RPM 11.2.2 Establishing the Significance of the Disability

(Revised [06/09](#), [02/11](#), [09/11](#))

When you select an impairment category, you must also determine the level of significance of the case. The level of significance of a case may be re-determined throughout the life of the case. However, if a case is designated as “significant” or “most significant,” the case may not be re-determined as “not significant” without manager approval.

* A consumer’s disability is considered “significant” when

- it results in
 - serious limits in functional capacity that require intervention not typically needed by workers without disabilities, and
 - a need for multiple VR services to achieve a suitable employment outcome (that is, assessment to develop the IPE, counseling, and at least one additional substantial VR service); and
- the delivery of services is realistically expected to take more than six months from the date of the IPE.*

* Based on 34 CFR Section 361.5(b)(31)

As a result of the RSA-911 reporting changes that were issued in August, 2013, states were required to further define “significance” into three levels of significance: 1) Not Significant, 2) Significant, and 3) Most Significant.

DARS definitions of three levels of significance:

- 1) Not Significant—No limited functional capacities.
- 2) Significant—One or more limited functional capacities and multiple services are needed for an extended period of time.
- 3) Most Significant—Three or more limited functional capacities and multiple services are needed for an extended period of time.

Appendix C. Division for Blind Services

Eligibility Criteria

Department of Assistive and Rehabilitative Services

3.2 Eligibility Criteria for VR Services

There are four eligibility criteria for certification of VR services. They are:

Criterion 1: The individual has a visual impairment.

Criterion 2: The visual impairment constitutes or results in a substantial impediment to employment.

Criterion 3: The individual requires VR services to prepare for, enter, engage in, or retain employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Criterion 4: There is a presumption that the individual is capable of achieving an employment outcome, unless there is a demonstration by clear and convincing evidence in extended evaluation/trial work that the individual is incapable of achieving an employment outcome due to the severity of the individual's disability.

3.5.2 Definition of a Visual Impairment

(Revised [08/11](#))

A visual impairment is defined as

- a visual acuity of 20/70 or less in the better eye, with best correction, or
- a visual field of 30 degrees or less in the better eye, or
- a combination of both.

Appendix D. Definition of Supported Employment (SE)

Department of Assistive and Rehabilitative Services Division for Rehabilitative Services

Supported Employment

Supported Employment is competitive employment in an integrated work setting, consistent with the consumer's:

- strengths,
- resources,
- priorities,
- concerns,
- abilities,
- capabilities,
- interests, and
- informed choice.

* Supported Employment services are appropriate for consumers with the most significant disabilities who meet all the following criteria:

- have not worked, or have worked only intermittently, in competitive employment;
- have been determined eligible for VR services based on a comprehensive assessment, including consideration of Supported Employment as an employment outcome;
- need extended services to maintain employment following successful VR closure; and
- can maintain competitive employment with necessary supports.

This definition includes transitional employment for persons with the most significant disabilities caused by chronic mental illness.*

* Based on 34 CFR Section 363.6(c)

Appendix E. Definition of Customized Employment

United States Department of Labor Office of Disability Employment Policy

Customized Employment

Customized employment is a flexible process designed to personalize the employment relationship between a job candidate and an employer in a way that meets the needs of both. It is based on an individualized match between the strengths, conditions, and interests of a job candidate and the identified business needs of an employer. Customized Employment utilizes an individualized approach to employment planning and job development — one person at a time . . . one employer at a time.

Customized employment will often take the form of:

Task reassignment: Some of the job tasks of incumbent workers are reassigned to a new employee. This reassignment allows the incumbent worker to focus on the critical functions of his/her job (i.e., primary job responsibilities) and complete more of the central work of the job. Task reassignment typically takes the form of job creation, whereby a new job description is negotiated based on current, unmet workplace needs.

Job carving: An existing job description is modified—containing one or more, but not all, of the tasks from the original job description.

Job sharing: Two or more people share the tasks and responsibilities of a job based on each other's strengths.

Less common — though becoming more established throughout the country — is Self-Employment as a form of Customized Employment. Self-Employment allows for an individual to receive assistance in the creation of an independently owned small business (typically a micro enterprise, under five employees) based on the strengths and dreams of an individual and the unmet needs of a local market while incorporating the individualized planning and support strategies needed for success.