



Department for Aging And Rehabilitative Services (DARS)
Division of Rehabilitative Services (DRS)
Employment Service Organization Steering Committee (ESOSC)

DARS Central Office, Richmond, Virginia
1st Floor Conference Rooms
Tuesday October 16, 2018 10:00 AM
Final Meeting Minutes

Members Present: Megan Bergen, Chris Lavach, Jason Harper, Michelle Brownlee, Cheryl Moran, Shawn Smith, Robin Metcalf, Stephanie Lau, Dan Reichard, David Gusler, Carey Yates, Jan Williams, Chuck McElroy, Gary Cotta, Christy Stegman, Rachel Rounds, Alan Hargraves, Krista Shanafelt, Phil Smith, Greg Ellison

Members Absent:

Guests Attending: Karen Tefelski, Sharon Harrup, Joanne Ellis, Zanelle Nichols, and Matt O'Connell

DRS Staff Attending: Kathy Hayfield, Dale Batten, Donna Bonessi, Dionca Coleman, Catherine Harrison, Jessice Stehle, Sherrina Sewell

10:00 am – Full Committee Call to Order

Megan Bergen

- Introductions
- Review and approval of draft minutes from July 10, 2018 meeting.

Commissioners Remarks

Commissioner Hayfield

Commissioner Hayfield discussed the LTESS/EES workgroup that was recently convened and she thanked those involved for their hard work. She is looking forward to collaborating to make positive changes over the next few years as the ESOSC reviews the LTESS/EES program. She discussed the recent budget alignment that resulted in the elimination of 44 positions from the agency in the VR program. The budget realignment was necessary to address a \$10 million budget reduction to the VR program. There are no cuts to state general funds at this time. Open positions in the field are frozen at this time. The Commissioner introduced Dale Batten as the new Director for the Division of Rehabilitative Services.

Directors update

Dale Batten

Ms. Batten reviewed performance outcomes for Federal Fiscal Year 18. There were 3300 successful closures for FFY 18. The goal was 3400. Several factors impacted the agency's ability to meet the expected outcomes such as OOS and Pre-ETS. She stated that moving forward rehab goals would be changing. New measures moving forward will consist of reviewing median wages of the VR program participants who are employed during the second and fourth quarters after exit from the program and percent of VR program participants whose hourly wages at exit is at or above the state median hourly wage. She informed the group of recent changes to field offices with the new alignment of districts. There are now 5 districts and the Warsaw office will be closing. A new district map was shared (attached). There are 5 BDM managers and they will continue to overlap districts.

Pre-ETS RFP Update

Jessica Stehle

Jessica informed the group that DARS will accept additional proposals to expand the provision for Pre-ETS. We are looking to add to existing vendors. The first round of proposal reviews will take place in November and will be conducted on a regular basis. DARS is interested in increasing services in underserved areas and adding Work based Learning opportunities. Feedback for proposal that were not selected on the first round was offered to all organizations that submitted proposals. If you were not able to schedule a time for feedback please contact Jessica Stehle and she will schedule a time to discuss.

LTESS/EES 1st Quarter review/Reserve Analysis

Donna Bonessi

Donna provided a review of projected balances for LTESS and EES based on expenditures during the first three months of the Fiscal year. Currently there it is projected that there will be a balance of \$113,000 in LTESS and \$20,000 in EES. These projected balances assume that new vendors use their funds. An analysis of the reserve funds will be completed to determine how much if any of the funds can be released for permanent reallocation in FY 20. The reserve funding is set aside for clients to transfer to another vendor due to current vendor not providing services any longer. If a client hasn't returned for services within a year the funds are then released.

Requirements of the VR Program/Workgroup

Catherine Harrison



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Catherine Harrison provided an overview of the activities of the workgroup charged with providing recommendations to the Chairmen of the Senate Finance and House Appropriations Committees on the consolidation of the LTESS and EES programs. The report is currently under review in the Secretary's office. The workgroup had two recommendations. The first being to maintain the current LTESS and EES structure. Task the ESOSC with a thorough analysis of what potential implications would be, impacts on populations, definitions etc.

Ms. Harrison also provided a presentation regarding the federal Vocational Rehabilitation program definitions and parameters (attached). The presentation discussed the federal requirements that DARS must follow. These regulation require DARS to work with individuals to obtain Competitive Integrated Employment as defined by WIOA.

Funding Sub Committee Report:

Canceled

Public Policy Sub-Committee:

Canceled

Nominations Sub-Committee:

Canceled

Public Comment:

Upcoming meeting dates were set for January 15, April 9, July 9, and October 8.

Meeting Adjourned: 11:51 a.m.



Virginia Dept. for Aging and Rehabilitative Services
Division of Rehabilitative Services

📍 Wilson Workforce and Rehabilitation Center

● Field Offices

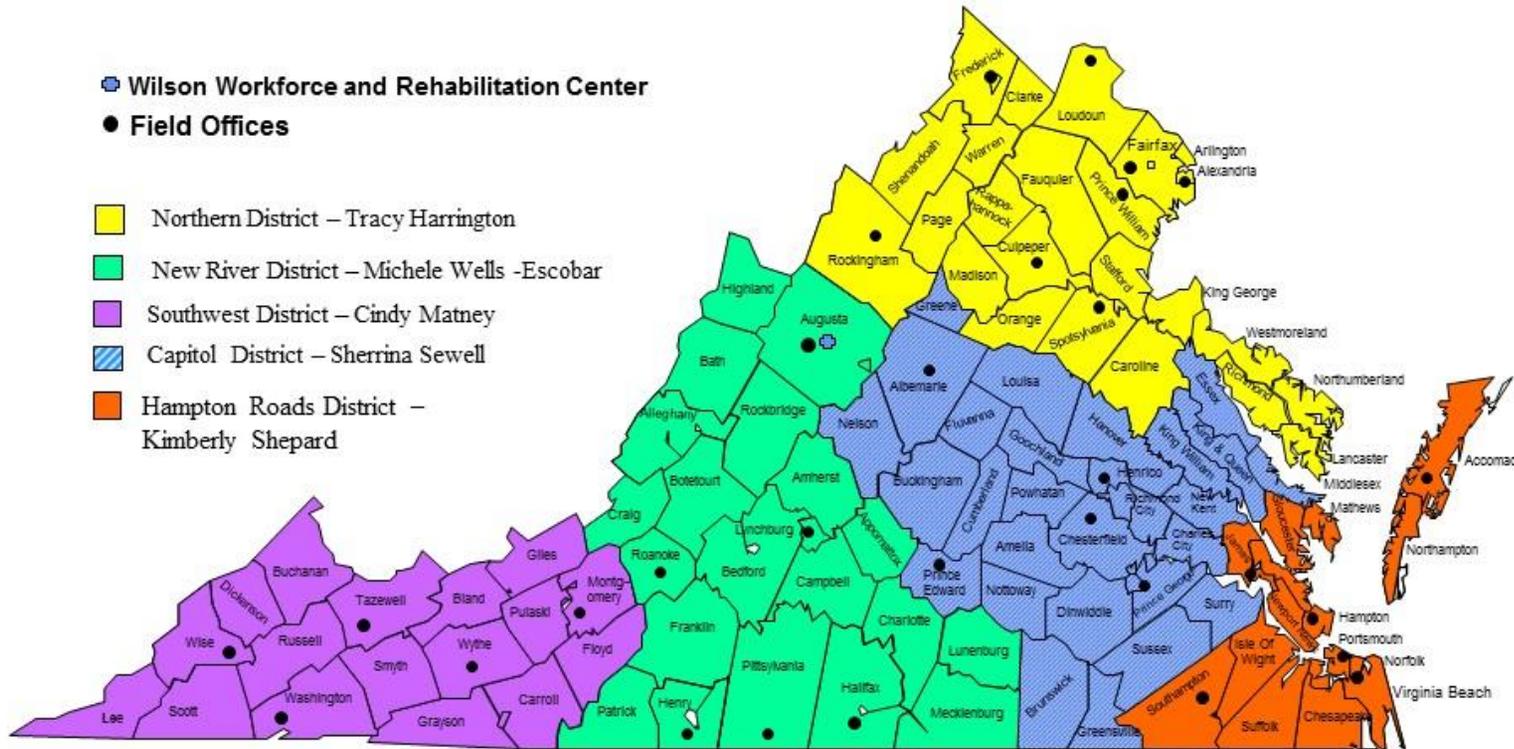
🟡 Northern District – Tracy Harrington

🟢 New River District – Michele Wells -Escobar

🟣 Southwest District – Cindy Matney

🟦 Capitol District – Sherrina Sewell

🟠 Hampton Roads District –
 Kimberly Shepard





DARS

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*Supporting Virginians' efforts
to secure independence and employment*



Federal Requirements of Virginia's Vocational Rehabilitation Program and an Update on the LTESS and EES Workgroup

ESOSC Meeting
October 15, 2018



VR Program Parameters



Important Definitions

- Individual with a Significant Disability
- Individual with a Most Significant Disability
- Employment Outcome
- Competitive Integrated Employment
- Integrated Setting
- Supported Employment



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Individual with a Significant Disability

29 USC 705 (21)

- Individual with a significant disability (SD) – individual with a disability who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.



Individual with a Most Significant Disability

29 USC 705 (21)

- Individual with a most significant disability (MSD)
 - an individual with a significant disability who meets criteria established by the State under 721(a)(5)(c) (order of selection in State Plan).
 - An individual with an SD that seriously limits three or more functional capacities.



Employment Outcome

34CFR361.5(c)(15)

- Employment outcome - Competitive integrated employment or supported employment that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.



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Competitive Integrated Employment – Components of the Definition 34CFR361.5(c)(9)

To satisfy the definition of “competitive integrated employment,” which is one of the types of employment outcomes permitted under the VR program, the employment must satisfy the requirements for all three components:

- Competitive earnings;
- Integrated location; and
- Opportunities for advancement.

This means that if an individual’s employment fails to satisfy any one of the above components, the employment will not meet the definition of “competitive integrated employment.”



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Competitive Integrated Employment – Competitive Earnings Component

Under the definition of “competitive integrated employment,” earnings must be:

- Equal to or greater than the Federal, State, or local minimum wage rate, whichever is higher, where the place of employment is located; and
- Comparable to the customary rate paid by the employer to employees without disabilities in similar positions with comparable skills, experience, and training.

The employee with the disability also must receive benefits comparable to those of employees without disabilities in similar positions.



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Competitive Integrated Employment

Integrated Setting Component 34CFR361.5(c)(32)

WIOA states that VR agencies must determine on a case-by-case basis whether the employment satisfies two criteria:

1. is in a setting **typically found in the community**; and
2. is in a setting in which the individual with the disability interacts while performing his or her job duties with employees without disabilities in the work unit and the entire employment site, and other persons (e.g., vendors and customers) without disabilities to the same extent that employees without disabilities in similar positions interact with these persons.



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Competitive Integrated Employment Opportunities for Advancement Component

- The employee with the disability must be eligible for the same opportunities for advancement as are available to employees without disabilities in similar positions.



Supported Employment

34CFR361.5(c)(53)

- Supported Employment (SE) – competitive integrated employment or employment in an integrated setting on a short term basis that is working towards CIE for individuals with a most significant disability (MSD).



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Vocational Rehabilitation (VR) Program

- An employment program for people with disabilities.
- Emphasis is on serving people with significant disabilities.
- An eligibility not an entitlement program.
- Utilizes an individualized and goal directed process tailored to removing barriers to employment.



VR Process is Linear

- Referral and application.
- Assessment including review of existing data and provision of diagnostic studies.
- Creation and implementation of the Individualized Plan for Employment (IPE).
- GOAL – Competitive Integrated Employment



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Requirements for Eligibility

34 CFR 361.42

- Applicant has a physical or mental impairment.
- Applicant's physical or mental impairment constitutes or results in a substantial impediment to employment.
- "...an individual is presumed to have a goal of an employment outcome."
- Must require VR services to secure, retain, advance in, or regain employment.
- Applicant is a U.S. citizen, or a non-U.S. citizen who has provided documentation of legal eligibility to work in the U.S.



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Presumption of Benefit

34 CFR 361.42(a)(2)

- DRS must presume that an applicant (who has been determined to have a physical or mental impairment and that the impairment constitutes or results in a substantial impediment to employment) can benefit in terms of an employment outcome.



Achievement of an Employment Outcome

34 CFR361.42(a)(4)

- “Any eligible individual...must intend to achieve an employment outcome...”
- DRS is responsible for informing individuals through the VR application process that individuals who receive VR services “must intend to achieve an employment outcome.”



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Informed Choice

Federal Register/ Vol. 81 No. 161 8/19/16 Preamble

- ...an individual with a disability may pursue any form of employment he or she chooses. However, if the individual wishes to receive VR services, he or she must intend to achieve and “employment outcome” ...If the individual chooses to pursue work that does not satisfy the definition of “employment outcome” for purposes of the VR program, such as sheltered employment, the individual must seek services from another agency or provider...



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Information and Referral

34CFR361.37(b)

- DRS “must refer to appropriate programs and service providers best suited to address the specific rehabilitation, independent living, and employment needs of an individual with a disability who makes an informed choice not to pursue an employment outcome under the VR program”.
 - Before making the referral DRS must explain that the purpose of the VR program is to help achieve an employment outcome and provide the individual with information about employment options and VR services to assist in achieving an employment outcome.



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Resources for the VR Program

- VR program funds must be used for the provision of allowable VR services or the administration of the VR program, all of which must be geared toward assisting eligible individuals to achieve “employment outcomes.”



Olmstead Considerations



What is Olmstead?

- Olmstead is not a law but a 1999 Supreme Court decision (*Olmstead v. L.C.*).
 - The Supreme Court found that the segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act.
- Compliance requires that individuals with disabilities receive services in the most integrated setting appropriate to their needs.
- Applies to publicly funded services.



Workgroup Examining the Consolidation of LTESS and EES



Workgroup Charge

- The 2018 Appropriation Act (Chapter 2, 2018 Special Session I Acts of Assembly), as passed by the General Assembly and signed by Governor Northam on June 7, 2018, requires the Department for Aging and Rehabilitative Services (DARS) in Item 329 P. to convene a workgroup of relevant stakeholders to assess combining the Extended Employment Services (EES) and Long Term Employment Support Services (LTESS) funds into one program.



LTESS and EES Workgroup

- The LTESS/EES workgroup held three public meetings to facilitate workgroup discussions and allow for public input.
 - August 9, 2018
 - September 4, 2018
 - September 17, 2018
- Workgroup composition:
 - Jason Harper of RSVP [Association for People Supporting Employment First (APSE) representative]
 - Sharon Harrup of STEPS, Inc. (at large employment services organization (ESO) that receives LTESS/EES funds)
 - Stephanie Hoer of Goodwill Industries of the Valleys (Virginia Goodwill Network)
 - Susan Massart (House Appropriations Committee staff)
 - Kenneth McCabe (Department of Planning and Budget staff)
 - Robin Metcalf of The Choice Group [Virginia Association of Community Rehabilitation Programs (vaACCSES) representative]
 - Michael Tweedy (Senate Finance Committee staff)



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Recommendations to the Chairman of the House Appropriations and Senate Finance Committees

Recommendation 1: Retain the current LTESS and EES program and fund structures contained in the Code of Virginia §51.5-169.1 and budget language, in order to more clearly assess the impact of statutory and funding allocation changes made to the programs, effective July 1, 2018.

Recommendation 2: Request the Employment Services Organization Steering Committee (ESOSC) to examine the LTESS and EES programs and funding requirements and make recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2020. In their review, the ESOSC should at a minimum consider:

- Program definitions;
- Data collection and missing data needs;
- Program parameters and options; and
- The impact of federal monitoring.



Questions and Comments

Catherine Harrison

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