



EXECUTIVE ORDER NO. 13-04

PROVIDING EMPLOYMENT SERVICES TO INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

Individuals with disabilities persistently face higher rates of unemployment than their non-disabled fellow citizens.

As Oregon's economy continues to recover from the 2008 recession, we must strive to ensure that all Oregonians benefit from the recovery, including those with intellectual and developmental disabilities.

Oregon is a leader in providing supported employment services to individuals with intellectual and developmental disabilities. Oregon adopted an Employment First Policy in 2008, making it one of the first states to do so. The Employment First Policy makes integrated employment the goal for all Oregonians with intellectual and developmental disabilities.

In April 2012, Oregon was awarded a competitive grant from the United States Department of Labor to provide resources to assist in the strategic planning and implementation of the Employment First Policy. Oregon was one of only three states awarded the grant.

While the state cannot guarantee a job to any Oregonian, the state can and should consistently work to continue to improve its provision of employment services to provide the best possible opportunities for success and choice for individuals receiving those services. This requires new approaches and partnerships with government, the non-profit services sector, and potential employers in the business community.

Improving Oregon's delivery of employment services, with the goal of achieving integrated employment for individuals with intellectual and developmental disabilities, consistent with their abilities and choices, will benefit individuals with disabilities, their families, our communities, the economy, and the state.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

Following the strategies set forth in further detail below, the Oregon Department of Human Services and the Oregon Department of Education shall work to further improve Oregon's systems of designing and delivering employment services to those with intellectual and developmental disabilities toward fulfillment of Oregon's Employment First Policy, including a significant reduction over time of



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state support of sheltered work and an increased investment in employment services.

I. DEFINITIONS

For the purposes of this Executive Order only, as used below, the following terms have the following meanings:

1. "The State" means the State of Oregon, including the Office of Developmental Disability Services ("ODDS") and the Office of Vocational Rehabilitation Services ("OVRs"), as administered through the Department of Human Services ("DHS"), and the Oregon Department of Education ("ODE").
2. A "sheltered workshop" is a facility-based service that congregates more than eight adults with intellectual or developmental disabilities ("I/DD"). Sheltered workshops are operated by service provider entities. In general, a sheltered workshop employs only individuals with I/DD or other disabilities except for service support staff. However, assessments, instruction, and activities that typically occur in public schools and that are provided either directly or by contract by the public school districts, by public charter schools, by an educational service district, or ODE in a school setting are not considered sheltered workshops.
3. "Intellectual disability" and "developmental disability" are defined in Oregon Administrative Rules by the ODDS (OAR Chapter 411, Division 320).
4. "Individuals with I/DD" are persons who are found eligible for publicly-funded developmental disability services provided by ODDS.
5. "Employment Services" provided by ODDS or OVRs are services that are intended to assist a person with I/DD to choose, get, learn, and keep work in an integrated employment setting. Employment services shall be "individualized," meaning that services shall be individually planned, based on person-centered planning principles and evidence-based practices, where applicable.
6. A "career development plan" is part of an Individual Support Plan ("ISP") regarding ODDS services and an Individual Plan for Employment ("IPE") regarding OVRs services. A "career development plan" identifies the individual's employment goals and objectives, the services and supports needed to achieve those goals, the persons, agencies, and providers assigned to assist the person to



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attain those goals, the obstacles to the individual working in an individualized job in an integrated employment setting, and the services and supports necessary to overcome those obstacles. Career development plans shall be based on person-centered planning principles. Career development plans are created through various strategies and tools, must include vocational assessments, and may also include situational assessments, discovery, and other strategies and tools.

a. A “vocational assessment” is an assessment administered to provide employment-related information essential to the development of, or revision of, an individual’s employment-related planning documents, including the IPE and ISP, where applicable.

b. A “situational assessment” is an assessment that maintains the qualities of a vocational assessment but is administered on-site in an integrated employment setting, where an individual is evaluated in the performance of work activities that are typical to the setting where the assessment is administered.

c. “Discovery” is the time-limited process (up to six months) by which an individual’s planning team assists an individual to identify his/her interests, strengths, and abilities relating to employment, with the goal of attaining and maintaining employment in an integrated employment setting, including self-employment.

7. “Person-centered planning” is the process by which an individual, with the assistance of the person’s planning team, identifies the direction of his/her future vocational and employment related activities based on his/her skills, interests, strengths, and abilities, regardless of whether the individual has the verbal ability to express such information.

8. A “qualified employment services provider” is a provider of Employment Services that meets the qualification requirements to deliver employment services consistent with OAR 411-323-0010 to 0070 and OAR 411-345-030, and any rule subsequently issued by DHS.

9. An “integrated employment setting” is a setting that allows an individual to interact with non-disabled persons in the employment setting. An integrated employment setting cannot be facility-based work in a sheltered workshop or non-work activities, such as Alternatives to Employment (ATE). An integrated employment setting is a typical work environment, including self-



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employment or small business models, in the community. An integrated employment setting can include a group enclave or mobile crew but must allow an individual to interact with non-disabled persons in the employment setting.

10. "Working age individuals" are adults with I/DD between the ages of 21 and 60, individuals with I/DD who are younger than 21 and who are no longer receiving public school services, and those with I/DD over 60 who choose to continue employment.

11. "Evidence-based practices" means well-defined best practices, which have been demonstrated to be effective with the I/DD population or the relevant subset of that population, such as youth sixteen or older, by multiple peer-reviewed research studies that are specific to the I/DD population or subset of that population.

II. TARGET POPULATIONS

1. ODDS/OVRS Target Population. At a minimum, the following individuals will receive Employment Services described in this Order:

a. Working age individuals with I/DD who receive sheltered workshop services on or after the effective date of this Order; and

b. Transition aged individuals with I/DD who are found eligible for ODDS or OVRS services. For the purpose of this provision, transition age means (1) at least 16 years of age for OVRS services and at least 18 years of age for ODDS services, and (2) no older than the date two years after an individual has ceased receiving public school services in the Oregon secondary schools.

2. Education Target Population. The expectations for ODE described in Section X. below are intended to benefit the following target populations, to the extent described in Section X. below:

a. School age children and youth with I/DD who are found eligible for ODDS or OVRS services;

b. All youth receiving services in public schools who are eligible for services under the Individuals with Disabilities in Education Act ("IDEA") who are of transition age. Transition age for purposes of this



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provision begins at the start of the one-year period of a student's Individual Education Plan ("IEP") during which the student reaches 16 years of age. Transition age ends when a student leaves school.

III. SHELTERED WORKSHOPS

1. By July 1, 2014, ODDS and OVRS shall no longer purchase or fund vocational assessments for individuals with I/DD that occur in sheltered workshop settings.

2. By July 1, 2015, ODDS and OVRS shall no longer purchase or fund sheltered workshop placements for:

- a. transition-age youth with I/DD, as defined under Section II.1.b. above;
- b. any working age adult with I/DD who is newly eligible for ODDS or OVRS services; and
- c. any working age adult with I/DD who is already utilizing ODDS or OVRS services who is not already working in a sheltered workshop.

IV. EMPLOYMENT SERVICES PROVIDED THROUGH ODDS AND OVRS

1. ODDS and OVRS will establish and implement a policy that Employment Services shall be evidence-based and individualized. Where such evidence-based practices have not been identified, Oregon may adopt practices used in other states that are generally recognized as effective practices.

2. Employment Services shall be based on an individual's capabilities, choices, and strengths and shall be individually tailored to each person.

3. ODDS and OVRS will provide Employment Services to at least 2000 individuals in the ODDS/OVRS Target Population, in accordance with the following schedule:

- a. By July 1, 2014, ODDS and/or OVRS will provide Employment Services to at least 50 individuals.



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b. By July 1, 2015, ODDS and/or OVRS will provide Employment Services to at least an additional 100 individuals.

c. By July 1, 2016, ODDS and/or OVRS will provide Employment Services to at least an additional 200 individuals.

d. By July 1, 2017, ODDS and/or OVRS will provide Employment Services to at least an additional 275 individuals.

e. By July 1, 2018, ODDS and OVRS will provide Employment Services to at least an additional 275 individuals.

f. By July 1, 2019, ODDS and OVRS will provide Employment Services to at least an additional 275 individuals.

g. By July 1, 2020, ODDS and OVRS will provide Employment Services to at least an additional 275 individuals.

h. By July 1, 2021, ODDS and OVRS will provide Employment Services to at least an additional 275 individuals.

i. By July 1, 2022, ODDS and OVRS will provide Employment Services to at least an additional 275 individuals.

4. The intent of paragraph 3 above is that, over the next nine years, approximately half of the persons receiving Employment Services under this provision will be those in the Section II.1.b. ODDS/OVRS Target Population, and half will be those in the Section II.1.a. ODDS/OVRS Target Population, recognizing that numbers and percentages may change each year based on changing demographics, demand, and the choices of consumers.

5. OVRS shall not be required to provide services in a way that violates federal regulations that govern vocational rehabilitation services.

V. CAREER DEVELOPMENT PLANNING

1. No later than six (6) months after the effective date of this Order, ODDS shall adopt and implement policies and procedures for developing career development plans. The policies will include a presumption that all individuals in



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the ODDS/OVRS Target Populations are capable of working in an integrated employment setting.

2. The career development plan shall prioritize employment in integrated settings. The career development process shall focus on the strengths of the individual and shall be conducted with the goal of maximizing the number of hours spent working, consistent with an individual's abilities and choices. The primary purpose of all vocational assessments shall be to determine an individual's interests, strengths, and abilities, in order to identify a suitable match between the person and an integrated employment setting. If an individual has an existing vocational assessment that is current, accurate and relevant to establishing individual goals and services, it need not be redone or revised.

3. Working age individuals in sheltered workshops in the ODDS/OVRS Target Population shall receive a career development plan as part of the Employment Services they receive under Section IV., pursuant to the schedule set in that section. The expectation for transition-age persons in that Target Population is that they should have a career development plan no later than the date of their anticipated departure from the Oregon public schools, and in any event no later than one year after their departure. The provision of Employment Services by ODDS will not be delayed or denied due to the lack of a career development plan.

VI. TRAINING

1. By January 1, 2014, ODDS and OVRS will establish competencies for the provision of Employment Services, and will adopt and implement competency-based training standards for career development plans, job creation, job development, job coaching, and coordination of those services.

2. By July 1, 2016, ODDS and OVRS will purchase Employment Services for people with I/DD only from agencies or individual providers that are licensed, certified, credentialed or otherwise qualified as required by Oregon Administrative Rule. Such requirements for the provision of Employment Services will be competency-based and may include, as applicable, such national credentialing programs as the APSE Certified Employment Support Professional exam or a substantial equivalent.



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VII. OUTREACH AND AWARENESS

By January 1, 2014, ODDS and OVRS will develop an outreach and informational education program for all persons in the ODDS/OVRS Target Population that explains the benefits of employment, addresses concerns of families and perceived obstacles to participating in Employment Services, and is designed to encourage individuals with I/DD and their families to seek Employment Services.

VIII. PROVIDER CAPACITY

State agencies will make good faith efforts, within available budgetary resources, to ensure that there are a sufficient number of qualified employment providers to deliver the services and supports necessary for individuals in the ODDS/OVRS Target Population to receive Employment Services consistent with the terms of this Order.

IX. STATE AGENCY ACTIONS

1. Consistent with its authority and the Oregon Administrative Procedures Act, DHS will update ODDS and OVRS policies and administrative rules related to employment to be consistent with this Order.
2. Within six (6) months of the effective date of this Order, DHS shall designate a statewide Employment Coordinator to oversee and coordinate its employment services program and all activities required by DHS, ODDS, and/or OVRS under this Order. The Employment Coordinator will coordinate with the ODE employees referenced in Section X.3.b. below.
3. By January 1, 2014, DHS will support new or existing technical assistance provider(s) or use other available training resources to provide leadership, training and technical assistance to employment providers and to provider, county, support services brokerage, and vocational rehabilitation staff to support the performance of this Order.
4. By November 1, 2013, DHS shall adopt an "Integrated Employment Plan" to further carry out the goals of this Order. This Order and the Plan itself are not admissions that such a Plan is legally required, nor are they admissions on any legal issue that is currently the subject of (a) *Lane v. Kitzhaber*, a class action lawsuit alleging violations of the Americans with Disabilities Act, or (b) a parallel



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United States Department of Justice (“USDOJ”) investigation of a complaint to USDOJ made by persons involved in the *Lane* case. Given those matters and Oregon’s longstanding commitment to integrated services for individuals with disabilities, however, adopting a Plan is a prudent step. The Policy Group described in Section XIV. below shall provide comments on the Plan before it issues.

X. EDUCATION PROVISIONS

1. Intent. This Order, including these Education Provisions, is not intended to expand the obligations of the State or its schools under the IDEA.

2. Definitions. For purposes of this Section X., the following definitions apply:

a. “Education Goals” means the following goals:

(1) Families, students, and educators will have the expectation that individuals with I/DD will work in integrated, community-based settings.

(2) Students transitioning to adult services through OVRs or ODDS will be prepared to transition to integrated work experiences.

(3) Statewide systems will be coordinated to reach the goal of integrated employment opportunities as an outcome of students’ education.

b. “Transition-aged student” means a student who fits within the Education Target Population Section II.2.b.

c. “Transition services” means a coordinated set of activities for transition-aged students with I/DD that:

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student to facilitate the student's movement from school to post school activities, including postsecondary education, vocational education, integrated employment



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(including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(3) Includes:

- (A) Instruction;
- (B) Related services;
- (C) Community experiences;
- (D) The development of employment and other post school adult living objectives; and
- (E) If appropriate, acquisition of daily living skills and functional vocational evaluation; and

(4) May be special education, if provided as specially designed instruction, or related services, if required to assist a student with a disability to benefit from special education.

d. "Transition Technical Assistance" will be the substance of the work of the Statewide Transition Technical Assistance Network, described in Section X.3.c. below, and will include development of competencies for teachers, administrators, and other educational service providers that include:

(1) Transition-related curriculum and instructional approaches which are consistent with the Education Goals.

(2) Outcome-based transition planning approaches that use precepts of discovery and person-centered planning.

(3) Implementation of transition-related instructional approaches for I/DD target students, such as those that are community based, and which can include authentic experiences such as internships, mentorships, youth work experiences, job skill related instruction, and job shadowing.



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(4) Facilitation and management of interagency teams and resources to help ensure students and families can utilize resources from ODDS, OVRS, and local education agencies.

(5) Encouraging the implementation of Transition Services in the schools that are consistent with the Education Goals.

3. Strategies

a. ODE will implement, through contract with Oregon's federally-funded Parent Training and Information Center, or other similar entity, an ongoing program of outreach to students, families, and communities to seek to ensure that all individuals in the Education Target populations are familiar with the Education Goals.

b. ODE will designate staff specialists whose work will be focused on systems-change efforts in schools and communities to focus on liaisons with partner agencies, data quality and tracking, local capacity development, and working with local education agencies to help ensure that the Education Goals are reflected in the provision of Transition Services. ODE staff will also coordinate the work of a Statewide Transition Technical Assistance Network.

c. ODE will establish a Statewide Transition Technical Assistance Network to assist high schools in Oregon to provide Transition Services. The Transition Technical Assistance Network shall seek to ensure that the Education Goals of this order are implemented in assessment, curriculum, and instruction for students of transition age.

d. ODE will partner with OVRS and ODDS to ensure that individuals with I/DD who are in the Education Target Population are individually tracked so that the effects of these activities can be assessed.

e. Consistent with its authority, ODE shall support proposed legislative or rule changes that will prohibit local education agencies from contracting with adult service providers for employment or vocational assessment services in sheltered workshops.



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XI. INTERAGENCY COLLABORATION

1. Within six (6) months of the effective date of this Order, the State will develop and implement one or more inter-agency agreements or memorandum(a) of understanding among ODDS, OVRS, and ODE designed to assist in accomplishing the implementation of this Order that generally addresses the following issues:

- a. Allocation of responsibility, funding commitments, and authority for conducting and ensuring the performance of this Order, including career planning, transition planning, outreach, training, Employment Services, data collection and sharing, and service gaps.
- b. Employment outcomes through collaboration among ODDS, OVRS, and the Policy Group described in Section XIV. below.
- c. Coordination of funding (“braiding and blending”) to accomplish the goals of this Order.
- d. Coordinated outreach efforts to individuals in the ODDS/OVRS Target Populations by vocational rehabilitation counselors, personal agents, and service coordinators.

2. ODDS will include specific provisions in its contracts with each support services brokerage and each community developmental disability program (“CDDP”) to accomplish the full implementation of this Order.

XII. QUALITY ASSESSMENT AND IMPROVEMENT

By July 1, 2014, DHS will develop and implement a quality improvement initiative that is designed to promote Employment Services developed in accordance with this Order and to evaluate the quality of Employment Services provided to persons with I/DD under this Order statewide.

XIII. DATA COLLECTION AND REPORTING

1. Starting January 1, 2014, and semi-annually (twice a year) thereafter, the Employment Coordinator will monitor the progress of implementation of this Order through data collection, data analysis, and quality improvement activities.



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2. Starting January 1, 2014, and semi-annually (twice a year) thereafter, ODDS and OVRs shall collect data and report to the Employment Coordinator and the Policy Group the following data for working age individuals in the ODDS/OVRs Target Populations:

- a. The number of individuals receiving Employment Services;
- b. The number of persons working in the following settings: individual integrated employment, self-employment, sheltered employment, and group employment (8 or less);
- c. The number of individuals working in an integrated employment setting;
- d. The number of hours worked per week and hourly wages paid to those persons;
- e. The choices made by individuals between integrated work, sheltered work, and not working; and
- f. Complaints and grievances.

3. Starting January 1, 2014, and semi-annually (twice a year) thereafter, OVRs, ODDS, and ODE will report to the Employment Coordinator and the Policy Group on the progress made on the terms of this Order and the results of the data collected under this Section.

4. Starting July 1, 2013, ODDS, OVRs, and ODE will begin a program of regularly collecting and analyzing data described above in this Section XIII., and will identify problems or barriers to placement in or retaining jobs in an integrated employment setting, as well as service gaps, and will recommend to DHS, ODE, and the Legislature actions to improve services. ODDS, OVRs, and ODE will review this information on a semi-annual basis and develop and implement measures to improve services with respect to the problems and barriers identified.

XIV. ASSURING SUCCESS

1. The involvement of stakeholders is critical to success. Following execution of this Order, a group consisting of representatives of ODE and DHS, legislators, and stakeholders shall be formed to make recommendations to the



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Director of DHS and the Deputy Superintendent of Public Instruction regarding design and implementation on issues including but not limited to education, outreach, development of provider capacity, training, and processes for assessment and discovery. This group is referred to throughout this Order as the Policy Group. Disability Rights Oregon is also invited to attend and is expressly encouraged to participate in the Policy Group.

2. The Policy Group shall be formed no later than July 1, 2013.

3. The Policy Group shall recommend outcome metrics to the State, review the State's performance under those metrics, and make annual recommendations to the Governor for improving performance. Metrics developed by the Policy Group shall not create enforceable rights.

XV. OTHER LAWS

1. State agencies are not directed by this Order to act in a way that would jeopardize the State's federal funding, such as funding from United States Department of Education, Centers for Medicare & Medicaid Services, and/or Rehabilitation Services Administration, or that would violate federal law or regulations.

2. Performance of this Order is subject to Oregon law, including Article XI, section 7 of the Oregon Constitution. To the extent that this Order is not consistent with Oregon state statutes or administrative rules, the Order should be read as requesting a change in state law, so long as that request is consistent with

federal law. This Order does not attempt to override any provision of state law but reflects a desired policy change.

3. Wherever possible, this Order shall be read as consistent with federal law. In the event any provision of this Order is declared by a court to be in violation of any Oregon or federal law, that law will prevail and the remaining terms of this Executive Order will remain in full force and effect.

XVI. EFFECTIVE DATE AND EFFECT OF THIS ORDER

1. This Order shall take effect on July 1, 2013.



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2. This Order addresses employment services for those who have intellectual or developmental disabilities. Because various state agencies provide services to these persons, this Order is intended to promote agency coordination by providing a statement of my executive policy preferences, to assist the agencies in working together towards a common goal of better enabling those with intellectual or development disabilities to locate and maintain employment in community-based jobs. This Order states my policy preferences and directions to DHS and ODE. Directives that certain measures "shall" or "will" occur are not substitutes for rulemaking, which should occur where necessary to implement this Order and satisfy the requirements of the Oregon Administrative Procedures Act ("APA"). The Order is my request to DHS and the State Board of Education to engage in any rulemaking necessary to implement the terms of this Order, consistent with the terms of this Order, the agencies' rulemaking authority, and the APA.

3. Nothing in this Order is intended to or does create enforceable rights that do not already exist under current state or federal law. The terms of this Order do not provide a right to any person to individually claim that he or she has not received services required under any state or federal statute or regulation.

Done at Salem, Oregon, this 10 day of April, 2013.




John A. Kitzhaber, M.D.
GOVERNOR

ATTEST:


Kate Brown
SECRETARY OF STATE