



The State of Employment

**For People with Intellectual
and Developmental Disabilities**

2015



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Executive Summary

The state of employment for people with intellectual and developmental disabilities is: (committee to fill in with one single adjective, ex: "dire" "abysmal").

Since the national recession, California's economy has strengthened. However, many people with intellectual and developmental disabilities (I/DD) are not benefiting from one of the strongest economies in the world.

There are major policy changes underway designed to improve employment for people with I/DD. Well-meaning practices have typically placed people into segregated settings, often receiving subminimum wages. These counterproductive programs are proven to leave participants less prepared to enter traditional employment than if they had never participated in the program.

California's Employment First Policy paired with local projects and national efforts, like the Workforce Innovation and Opportunity Act and changes in the Home and Community Based Services waiver program, should begin to improve employment for people with I/DD.

The California State Council on Developmental Disabilities (SCDD) is an independent, federally funded State agency mandated to advocate, promote and implement policies and practices that achieve self-determination, independence, productivity and inclusion in all aspects of community life for Californians with I/DD and their families. This is the fifth in a series of reports on employment.

Introduction

In 2010, the California unemployment rate reached a peak of 12.2%. Over the past five years, California's economy grew. Its gross domestic product (GDP) growth often outpaced the growth in the United States overall. California's \$2.3 trillion economy became the 8th largest in the world. During this time the state's unemployment rate steadily declined to a rate of 5.9% in December of 2015. An additional 1,887,550 people found employment during the past five years bringing California's total labor force to 19 million people.

Unfortunately, people with I/DD are employed at a fraction of the rate of the rest of the population. According to the U.S. Census Bureau, 63.4% of California's population is part of the labor force. However, only 12.4% of Californians with I/DD being served by regional centers are receiving wages of any kind. Only 4,314 out of the approximately 300,000 people with I/DD receiving services through regional centers are in individual placement supported employment. That means only 1.4% are in real jobs with real pay.

In October 2013, Governor Brown signed AB 1041 (Chesbro), which established in statute an Employment First Policy. California became the 12th state to enact an employment first policy in law. A vital part of this Employment First Policy was the establishment of an Employment First



Committee (EFC), which the Council facilitates and maintains. The goal of the Employment First Policy in general, and the EFC in particular, is competitive integrated employment (CIE); that all people will have the opportunity to work in a fulfilling job at or above minimum wage.

Employment First starts off with the assumption that people with I/DD are expected to work. The outcome is that people with I/DD increasingly become part of the economic mainstream as they make full use of their skills and abilities

Why does any of this matter? Why is it important for people with I/DD to obtain CIE? The Lanterman Act was written so that people with I/DD could access the same kind of life and opportunities that people without disabilities have. In addition to simply paying the bills, work enables people to have more control over their own destiny and achieve better integration into community life. It allows individuals to contribute to the greater social good. Having a job increases physical as well as emotional well-being. In short, it is part of the human experience. The benefits of employment are many, as are the detriments of unemployment.

California Trends in Employment

Despite five years of economic growth in California, the employment rate for people with I/DD has remained abysmally low. There has been a lot of effort with only minimal improvement. While there is hope various strategies will finally begin to turn the tide, individuals with I/DD still face numerous barriers to gainful employment.

One of the issues in trying to untangle this knot is the complexity and variety of employment-related services and programs for people with I/DD, both in California and across the United States. Some of these have had a major impact, others a minor one, and others it is simply too early to tell.

Progress towards the goal of full, integrated employment has been slow in coming. While overall unemployment rates have fallen both in California and nationally in recent years, the recent rebound in the job market has not benefited all groups equally. People with I/DD still lag far behind the general population in employment in virtually every measurable category. Statistics consistently show that individuals with I/DD have fewer jobs, work fewer hours, and get paid less across the board than their non-disabled counterparts.

The passage of AB 1041 (Chesbro) in 2013 established an employment first policy in statute, directing the state to make opportunities for integrated, competitive employment a clear priority. This legislation was the result of years of cooperation between SCDD, its stakeholders, the Legislature and the Administration in implementing strategies to expand employment outcomes for people with developmental disabilities throughout California.

In California, 12.45% of working age, regional center clients get a paycheck. Of this 12.45%, the vast majority work in segregated work sites, make minimum or sub-minimum wages, and/or work a few hours a week. Only 1.4% of Californians with I/DD work in integrated competitive employment.



At the national level, California ranks in the lower percentage range of people with I/DD participating in competitive integrated employment. The EFC spent a significant amount of time exploring the use of federal and state statistics to be used as baseline data in monitoring the status of employment with people with I/DD. Federal data is helpful in understanding the extent of the problem, as well as measuring how well the state is doing in comparison to other states in the national effort to improve employment outcomes.

At the beginning of 2015, some initial priorities for EFC were to collaborate and research best practices with the Department of Developmental Services (DDS), and to partner with the California Consortium on Employment for Youth (CECY) on alternative supports for employment for youth with I/DD. These CECY priorities will be detailed later in this report.

The Broader Picture

Need for Data

In the beginning of the year, the EFC outlined the elements needed to create and sustain competitive integrated employment in the California. The lack of comprehensive data was a key concern for the committee. Without adequate data it is difficult at best to determine what is working and what is not.

The SCDD website hosts the data dashboard, which utilizes shared information between the DDS and the Employment Development Department (EDD) to illustrate how many people with developmental disabilities are currently working in comparison to people without a disability.

Data Dashboard Link: http://www.scdd.ca.gov/employment_data_dashboard.htm

Unfortunately, this data only provides a narrow view of the I/DD population, as the source data comes from people who file for disability benefits as a result of becoming injured on the job. This is a self-selected process and does not encompass the California population as a whole. When the data provided by DDS is compared to the data provided by the EDD data it does not provide a full picture of the overall population in California in comparison to people with I/DD who are employed. A richer source is needed to obtain more encompassing data.

Partnership - SCDD and the Franchise Tax Board of California

The Franchise Tax Board of California (FTB), which tracks earnings of over 16 million Californians, was identified as a possible source for more comprehensive data. SCDD was instrumental in bringing together both DDS and FTB to discuss a two-pronged approach. Given limitations on sharing individual data while still respecting privacy rights, SCDD is working with the FTB and DDS to explore the best ways to share information. It is believed this improved data sharing will ultimately enable more effectively targeted employment programs to be created.



The Regional Centers

California has a unique system of supports for people with Intellectual/Developmental Disabilities (I/DD). Created by the Lanterman Act, the 21 Regional Centers across California are independent nonprofits, which are contracted by DDS, and are dedicated to provide support services for the I/DD community. The Regional Centers, in turn, contract with local service providers/vendors which provide direct services. Employment support programs are an example of services provided by these local providers.

The regional centers offer different types of employment support programs for the I/DD population. An individual who chooses to take part in Regional Center services must apply and go through the individual program planning process. During this process individual/family advocate and the regional center discuss and determine what supported employment program best meets the individual's needs. The end result is an Individualized Plan Program (IPP), which outlines the individual's goals and the services needed to achieve those goals. The IPP is a binding contract requiring the regional center to meet the individual's service needs to the best of their capacity.

Rates and Restrictions on Regional Centers

The funding structure for supported employment programs is a complex process.

Rates for employment supports funded by Regional Centers are calculated in three basic ways:

- DDS set-rates for work activity programs or day programs with an employment component;
- Regional Center negotiated rates for "look-alike day programs" that may have an employment focus; and,
- Supported employment rates that are statutorily set by legislative action.

DDS set rates were previously based on an allowable range of rates that was updated every two years and adjusted for inflation. A vendor would receive a temporary rate in the middle of that range and then submit cost data after six months of service (three months for work activity programs) to establish their permanent rate. These rates were last updated in Fiscal Year 1998-99 and were frozen in 2003. Since that time new vendors are assigned the temporary rate and do not submit cost data, so this rate becomes their permanent rate even if their costs to provide the program are greater.

"Look-alike" day programs (a program in which people with I/DD participate in activities not related to employment) have rates set through negotiation with the Regional Center based on actual allowable costs. These rates were frozen in 2008. Also in 2008, Regional Centers lost the ability to negotiate rates for these services in excess of the lower of either the statewide or their individual Regional Center median rate for those services. These median rates were updated in 2011 and in many cases were reduced. Exceptions to the median rates must be approved by DDS on an individual basis and only when necessary to protect an individual's health or safety.

Supported Employment Programs, both group and individual, have rates set in statute, which must be adjusted through legislative action. These rates were reduced by 10% in 2008 and are finally scheduled for restoration and the first increase since 2006 in July 2016. Many community providers



of these services report that the current rate paid leaves them losing money for each individual they support under this model.

Regional Centers were established to act as a single point of contact for individuals with developmental disabilities and their families. They help individuals with access to needed community services, and pay for services that are not available elsewhere. Regional centers have had long-standing mandates to maximize the usage of other publicly funded resources, not to fund services that are the responsibility of another agency, and to be good stewards of public funds. Over 40% of the cost of the Regional Center system is paid by the federal government, which requires the use of generic resources before Regional Centers purchase services directly and that services that are purchased be cost-effective.

During the economic downturn that began in late 2007, California's DDS was required to absorb over \$1 billion in reductions. The aim was to keep the reductions as far away from the services that individuals supported by Regional Centers rely on as possible. One strategy was to clarify the Regional Centers' existing responsibilities to use generic resources and to consider cost-effectiveness in service selection, as follows:

- Welfare and Institutions Code Section 4648.55 clarified that day or vocational services could not be purchased in lieu of educational services for individuals between the ages of 18 and 22 if the individual remained eligible for public education and their goals could be met in an educational setting.
- Welfare and Institutions Code Section 4648(a)(6)(D) required Regional Centers to select the least costly provider of comparable quality (taking into account the cost of transportation and the availability of federal funds) that could meet an individual's goals.

These statutes remain in place today and continue to guide provider choice and the need to ensure that educational agencies have met their legal obligations to transition age youth ages 18-22.

Competitive Integrated Employment in Minority Communities

Reaching minority communities is vitally important. For example, by 2030, 1 in 4 children will be Latino in California. Children of minority communities with disabilities experience a more difficult time in receiving appropriate healthcare, education, and support services. The developmental services system of California is facing the multicultural demand of this young population. In response to this growing population and their needs, the Senate Select Committee on Autism and Related Disorders formed a Task Force on Equity and Diversity to examine for Regional Center services during the 2013/2014 California legislative session. While not specifically dealing with employment, the suggestions from this prestigious, year-long task force accurately point out systemic problems and potential solutions that can be instructive for improving employment outcomes as well.

The Task Force Recommendations

DDS and Regional Centers should ensure that all customers and their families receive information - including written documents about the IPP/IFSP process and procedure on regional center services and supports - in a language that is culturally and linguistically appropriate.



The following issues have been noted as possible IPP necessities in order to overcome potential barriers and providing culturally competent regional center services:

- Nontraditional Service Hours
- Access to Bilingual Staff Who Are Able to Communicate in the Consumer or Families Preferred Language
- Access to Documents and Information in the Individual or Families Preferred Language

The IPP team must consider the individual and their family's needs in determining culturally and linguistically appropriate services:

- Allow Flexibility with requirements including parental participation requirements
- DDS - in partnership with regional centers and as additional funding sources become available - must ensure access to bilingual and bicultural staff providers for implementing the following:
- Access to trainings for regional center staff that are provided by organizations and providers that are culturally/linguistically competent, to trainings that serve a cultural/language diverse community
- Require New RFPs to address issues of equity and diversity
- Partner with community faith organizations that may assist in providing assistant, resources and supports on issues related to equity and cultural competency

Self-Determination

In October 2013, Governor Brown signed Senate Bill 468 that will lead to the creation of the state's Self-Determination Program (SDP). This program will enable individuals to create a highly customized service plan and receive supports from a wider range of service providers, including those that do not traditionally serve individuals with disabilities. All services must be eligible for federal funding, so the HCBS Final Rule discussed earlier applies to this model as well. Currently, the state is seeking federal approval for the program to serve initially up to 2,500 individuals. After a three-year phase in period, most individuals eligible for Regional Center services will be able to choose whether to transition to SDP.

The Principles of Self-Determination include:

- Freedom to exercise the same rights as all citizens; to establish, with freely chosen supports, family and friends, where they want to live, with whom they want to live, how their time will be occupied, and who supports them;
- Authority to control a budget in order to purchase services and supports of their choosing;
- Support, including the ability to arrange resources and personnel, which will allow flexibility to live in the community of their choice;
- Responsibility, which includes the opportunity to take responsibility for making decisions in their own lives and accept a valued role in their community, and
- Confirmation, in making decisions in their own lives by designing and operating the service that they rely on.



The Self-Determination Program in California is about people with disabilities exerting their sense of agency and power of choice, critical pieces for their complete integration in society. For any Californian, a job and the income produced by it facilitates social and economic empowerment.

SCDD is a strong proponent of Self-Determination. The Self-Determination Program will provide self-advocates and their families with more freedom, control, and responsibility in choosing services and supports to help them meet service needs and personal goals in their Individual Program Plan (IPP).

The State Council Legislative Activities

The mission driving the State Council is capacity building and systems change. An essential tool in accomplishing this is the Council's role in advocating for laws improving the quality of life for people with I/DD. CIE is a vital part of that strategy. The EFC's work informs that of the Council's Legislative and Public Policy Committee (LPPC). The LPPC receives guidance from the EFC, and utilizes that input in evaluating which pieces of employment-related legislation to support or oppose. Thus, the EFC works synergistically with the LPPC to advance policies favoring CIE throughout the state.

SCDD Bills Supported and Chaptered into Law in 2015

Employment Specific Laws

AB 987 (Levine D) Employment discrimination: unlawful employment practices. Status: 7/16/2015-Chaptered by Secretary of State – Chapter 122, Statutes of 2015

Summary: Would prohibit an employer or other covered entity from retaliating or otherwise discriminating against a person for requesting accommodation of his or her disability or religious beliefs, regardless of whether the accommodation request was granted. The bill would make related findings and declarations. This bill contains other existing laws.

SB 644 (Hancock D) Limited Examination and Appointment Program: persons with developmental disabilities. Status: 9/28/2015-Chaptered by Secretary of State - Chapter 356, Statutes of 2015.

Summary: Current law authorizes the Department of Human Resources to conduct competitive examinations to determine eligibility for appointment under LEAP and requires the department to refer the names of eligible applicants who meet the minimum qualifications of a job classification to the appointing powers for examination appointments, as specified. This bill would permit a person with a developmental disability to either complete a written examination or readiness evaluation or an internship, as specified, to qualify for service under LEAP.

The Role of the Department of Rehabilitation (DOR)

The Department of Rehabilitation is a crucial partner in providing employment supports to people with I/DD in California. Young adults with I/DD seeking employment face many challenges



transitioning into the workforce, and DOR's vocational rehabilitation services' aim to ease the transition. This population encompasses a complex demographic group. As has been pointed out, the difference in hiring percentage between individuals any of disability compared to those individuals with intellectual and developmental disabilities is striking. Difference in annual salary between these 2 groups is equally significant, although with a slight improvement in recent years.

Summer Vocational Programs

There has been strong community support for summer employment activities, such as summer boot camps. One current vision is to fund non-residential summer programs that would be one to two weeks in duration and provided by LEAs, Community Rehabilitation Programs, or Independent Living Centers. These programs will offer many benefits – including real world work experience, money management skills, and a sense of responsibility and independence.

DOR will also consider funding pilot residential programs whereby students come together from across the state to receive services at a facility that provides residential supports. This model had considerable support by the Blind Advisory Council and the Deaf and Hard of Hearing Advisory Council. Both the residential and non-residential models of summer vocational program would provide students with peer and mentor support and help students develop networking relationships for the future.

Self-Advocacy Training

DOR will establish self-advocacy training pilots. Students with disabilities have a broad range of supports in the school environment to accommodate their needs and facilitate their success in school. Many of those supports will not be available to them after they transition to higher education and the working world. Students need skills to recognize and address academic, independent living, and vocational barriers prior to their exit from high school. Self-Advocacy training gives students those skills.

National Policy Initiatives Shaping Service Delivery

Fortunately, there are some major changes on the horizon that are poised to boost CIE. However, like most large scale endeavors, the turnaround will likely be a gradual one.

All states rely heavily on federal funds to offset the cost of community services to individuals with developmental disabilities. In recent years, federal policy has become increasingly clear that services funded with federal money need to be integrated in the greater community. For services funded by Regional Centers, the Home and Community-Based Services (HCBS) Final Rule, the Workforce Innovation and Opportunities Act (WIOA), and the state's Self-Determination Program will have the greatest impact on service delivery going forward.

HCBS Final Rule

The HCBS Final Rule was issued by the Centers for Medicare and Medicaid Services (CMS) in early 2014. It requires three basic things: 1) that services be individually tailored through a person-centered planning process; 2) that all settings where services are provided are integrated into the greater community; and, 3) that all states submit a plan for CMS approval detailing how they will



transition and monitor services to ensure integration by the March 2019 deadline. California is diligently working on submitting its own transition plan to CMS.¹ The aim of the HCBS Final Rule is for individuals to have more customized services to meet their individual needs and for them to be supported as members of their communities. As HCBS comprehensive person-centered planning includes employment, it will play an as yet undetermined but significant role in increasing CIE.

Workforce Innovation and Opportunity Act (WIOA)

President Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law in July 2014. Similar to the HCBS Final Rule, it places a heavy emphasis on integrated services. It defines integration for the purposes of employment support services to include working alongside non-disabled peers who are performing the same job. It also requires that services be targeted to helping individuals to achieve competitive integrated employment with pay, benefits, and promotional opportunities comparable to non-disabled employees. WIOA also establishes strict requirements that must be met in order for individuals under age 24 to enter the subminimum wage workforce and the career exploration services that must be provided to all workers earning subminimum wages. California's Department of Rehabilitation (DOR) has been making changes to its programs in response to these mandates. Individuals with developmental disabilities often rely on services provided by DOR for initial job matching and support and receive longer-term employment support services from Regional Centers once stabilized in an employment setting. WIOA will shape the available employment service options available from both agencies as well as other workforce development programs that receive federal funds.

More on the Centers for Medicaid/Medicare Services (CMS) "New Final Rule"

In response to the demographic and needs of people with I/DD, in addition to the need to be in compliance with the *Americans with Disabilities Act (ADA)* and the *Olmstead Act*, CMS set new guidelines. Living and Employment settings funded through CMS' Home and Community Based Services (HCBS) must meet the Final Rule. This rule requires two basic things of an employment setting for people with I/DD: 1) that services be individually tailored through a person-centered planning process; 2) that all settings where services are provided are integrated into the greater community.

The Centers for Medicare and Medicaid services provide important federal funding to the California developmental disabilities service system. For every dollar the state of California spends on support programs for people with intellectual/developmental disabilities, the federal government through CMS provides a matching dollar. Without this federal match funds for developmental disabilities service system would be cut in half. California's Lanterman Act requires the state to provide services to anyone identified as having an intellectual or developmental disability before the age of 21. The Lanterman Act also established permanent a state funding mechanism for programs and services serving the I/DD community. California only receives a 47% match from CMS in federal funds for support services due to this state funding stream.

In the past, institutionalization was the system of care provided for people with intellectual and developmental disabilities (I/DD). The Centers for Medicare/Medicaid services changed its system to a more community integrated approach. CMS allowed states to be exempt from institutionalization



rules by issuing the 1915 C waiver. These waivers come with federal funding/money. The 1915i waiver is a state plan amendment allowing the state to provide some support services without having to meet the institutionalized level of care previously established by CMS regulations. California can select the services it chooses provided to the I/DD community but it must be provided to all individuals needing services California has submitted the 1915i waiver –state plan amendment application to CMS and now is waiting for approval. The “CMS New Final” rule outlines the type setting of services should be provided in, emphasizing an integrated setting including employment support services.

WIOA and California’s Complete Integrated Employment (CIE) Blueprint

The California Department of Education (CDE) Department of Rehabilitation (DOR) and DDS have worked together to create a proactive interagency plan to increase opportunities for individuals with ID/DD to prepare for and engage in CIE, and to reduce reliance upon subminimum wage jobs and segregated work settings. The California CIE Blueprint for will be used to create capacity of the service delivery system to support the achievement of CIE for individuals with I/DD. The Rehabilitation Act of 1973, amended by the WIOA, seeks to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society. Each person’s maximum employment potential and employment goals will be defined through the person-centered planning process. For each individual in CIE, his or her person-centered plan, if so chosen, will include services in settings that are integrated in and support full access to the greater community (HCBS settings rule). The Blueprint will be implemented over a five-year period. The Blueprint will build capacity and stimulate policy change in California state systems and local communities to increase the number of individuals with I/DD in CIE.

The development of the “Blueprint” affords the departments the opportunity to collaborate to further their goals to provide equal opportunities for individuals with I/DD. The Blueprint is consistent with state and federal law including the U.S. and California Constitutions regarding equality, the State’s Employment First Policy, the Lanterman Developmental Disabilities Services Act (“Lanterman Act”), the Americans with Disabilities Act, Individuals with Disabilities Education Act (IDEA), and the Supreme Court decision in *Olmstead v. L.C.* It will also meet the new federal requirements enacted in the WIOA, and the Centers for Medicare and Medicaid Services (CMS) Guidance for community based services.

The objectives, strategies, and actions within the goals of the Blueprint focus on the following five fundamental career development pathways to CIE: transition services, adult pathways to employment, post-secondary school activities, supported employment services, customized employment and other employment support options, and business partner engagement.

The Goals of the Blueprint:

- Improve collaboration and coordination between the three departments to prepare and support all individuals with I/DD who choose CIE.
- Build system capacity to increase opportunities for individuals with ID/DD who choose CIE to prepare for and participate in the California workforce development system and achieve CIE.



- Increase the ability of individuals with I/DD to make informed choices, adequately prepare for, transition to, and engage in CIE.

Background

In December 2014, the CDE, DOR, and DDS signed a Memorandum of Understanding (MOU) with the intent to identify and implement improvements in the coordination and capacity of the service system for individuals with I/DD resulting in more individuals becoming employed integrated settings at competitive wages consistent with the State's Employment First Policy, as well as other federal and state laws. The MOU documented the agreement between the three departments to formally engage in the Blueprint development process.

The intent of the Blueprint is to continue to build upon the implementation of new federal requirements including WIOA and HCBS settings rule related to integrated, competitive employment outcomes, specifically for students and youth and individuals with I/DD by developing and implementing a blueprint to improve CIE outcomes. Development of the Blueprint has been guided by the Employment First policy; information learned through several ongoing state projects including the California Community of Practice on Secondary Transition (CoP), California Promoting the Readiness of Minors in Supplemental Security Income (CaPROMISE), California Transition Alliance, and the California Employment Consortium for Youth and Young Adults with Intellectual and Developmental Disabilities (CECY) and will build on these projects. In addition, the development of the blueprint has been guided by the best thinking and resources of national entities wrestling with improving CIE outcomes, such as the National Center on Leadership for the Employment and Economic Advancement of People with Disabilities, the Office of Disability Employment Policy Community of Practice, the Institute on Community Inclusion, Partnerships In Employment, and Think College.

As demonstrated in the MOU and articulated in this Blueprint, the three departments will work together to increase CIE outcomes, using the effective practices used by states who lead the nation in CIE outcomes. These practices include the following:

Clearly defined goals and data collection

Strong agency leadership

Interagency collaboration

Ongoing training and outreach

Communication through relationships

Local control

Flexibility and respect for innovation

To track the effectiveness of the strategies and outcomes, the departments will use the Employment Data Dashboard hosted by the California State Council on Developmental Disabilities (SCDD) to track the employment participation rate of individuals with ID/DD. Additionally, the departments will



work with the SCDD to improve the outcome measures included in the Employment Data Dashboard.

Looking Ahead: The California Workforce Investment System

With varying degrees of success, California has engaged in efforts to bring employers and people with I/DD together to discuss employer needs. Along with this, the "Final Rule" from CMS and the implementation of WIOA has significantly changed the meaning of "an integrated setting" for living situations and receiving support services. It also has determined what an integrated work environment is for people with developmental disabilities. It also abolishes the practice of paying sub minimum wage to employees with I/DD at the national level. The Department of Rehabilitation has held public forums with employers in various industries and the support services sector, including State services, to understand each other's concerns, needs, and challenges. The California Employment Consortium for Youth (CECY) has identified and supported the work of Local Employment Collaborative Teams (LECTs) which exemplify how competitive integrated employment can succeed at the local level. The State Council has also worked on building community support with local stakeholders. Competitive Integrated Employment needs extensive collaboration between all stakeholders for it to become a reality.

California's Workforce Investment Board and Local for Investment Boards is an essential player that needs to be included to make CIE a reality in the state. The State Board receives funding from the Department of Labor through the Workforce Investment Act. (WIA) The primary responsibility of the State Board is to develop, in close consultation with the Governor, and implement a comprehensive and strategic workforce development plan for California. This mandate is both in federal and state law. The California Workforce Training Act requires that:

The California Workforce Investment Board, in collaboration with state and local partners, including the Chancellor of the California Community Colleges, the State Department of Education, other appropriate state agencies, and local workforce investment boards, shall develop a strategic workforce plan to serve as a framework for the development of public policy, fiscal investment, and operation of all state labor exchange, workforce education, and training programs to address the state's economic, demographic, and workforce needs. The strategic workforce plan shall also serve as the framework for the single state plan required by the Workforce Investment Act of 1998. The plan shall be updated at least every five years (UI Code Section 14020).

The WIA contains a requirement in Section 129(c)(4)(A) that, at a minimum, 30 percent of Youth formula funds allocated to each Local Workforce Investment Areas (LWIA) for Youth program activities must be spent on out-of-school youth activities. State directive WIAD04-6 provides the formal process for determining compliance and possible sanctions that may be imposed for failure of a LWIA to meet the 30 percent minimum expenditure requirement for out-of-school activities.

The strategies employed by the State and Local Boards, state and local partners that serve the neediest youth, and local youth councils are consistent with the State Strategic Workforce Development Plan Youth goal to increase the number of high school students, including those from underrepresented demographic groups most in need, who graduate prepared for postsecondary vocational training and/or a career.



Youth with I/DD should also benefit from WIA funds and training opportunities. There is a mention “supports for at risk youth” which connotes a “vulnerable population, youth with I/DD face many challenges and obstacles and are at risk of being left out of the California workforce completely. Competitive integrated employment for all is a priority under WIOA. Equal access for people with disabilities is guaranteed under the Americans with Disabilities Act (ADA). There is a provision for supporting people with disabilities through DOL’s the One-Stop program. The definition for” people with disabilities “, encompass a large group with diverse talents and support needs. There is no “one-size-fits-all” when it comes to job training and preparation for people with disabilities or without.

WIOA has set a new standard for workforce investment boards to meet Together the Employment First Committee, the State Council on Developmental Disabilities and the California’s Workforce Investment Board work to modify the workforce system to include people with I/DD.

As California strives to implement its workforce strategic plan the state must address the training needs for all workers including those with intellectual and developmental disabilities. People with auditory disabilities and ambulatory disabilities are the easier groups to integrate into a working environment. Those with cognitive disabilities and developmental disabilities require more tailored supports. As mentioned earlier, the population with I/DD has the lowest hiring rates and lowest earned income. Currently the definition of people with disabilities is rather broad and does not specify employment and training support for this group.

Employment First Committee Outlook for 2016

The EFC has worked tirelessly since its inception to address the low employment rate of people with I/DD in California. Self-advocates, family advocates, partnerships with fellow agencies, and collaboration with our federal partner agencies have continued to address the employment gap.

The California Employment Consortium for Youth (CECY) is a five-year systems change grant from the Administration on Intellectual and Developmental Disabilities (AIDD) to promote changes in policy and practice which will advance the employment of youth with intellectual and developmental disabilities (I/DD). SCDD is a lead agency in the grant, along with the Departments of Developmental Services, Rehabilitation, and Education. The CECY Policy Committee has developed policy briefs identifying the need for change and other actions necessary for California to better support people with IDD to achieve Competitive Integrated Employment (CIE).

Collaborative work with the California Employment Consortium for Youth led to the identification and support of successful local examples of CIE. The Employment First Committee in 2015 directed its attention to information gathering and a thorough analysis of the different elements involved in the implementation of CIE. In closing out the year the EFC committee voted to adopt the CECY priorities. These key policy priorities will guide the committee’s work from this point forward.

CECY Policy Priorities adopted by the Employment First Committee

Goal 1. Establish goals, benchmarks, and measurable outcomes for the implementation of the Employment First Policy.



Good data drives policy and performance. To effectively implement the Employment First Policy, California needs an established outcome measurement system, baseline measurements of current performance, and goals for improvement. Employment outcome measures may include the percentage of people working, wages, hours worked, employment settings, and other employment measures.

1.1 Data sharing legislation.

The data that the Department of Developmental Services (DDS) currently has access to do not allow it to assess employment outcomes by geography, disability type, severity of disability, ethnicity, or age. There is also limited data on the quality of employment for the people served and a lack of data on Regional Center clients who do not receive day or employment services. Without better data, California cannot know how well it is doing to implement Employment First, where it is succeeding, or where it needs to improve. Therefore, legislation to improve data sharing is critical path to implementation of the Employment First Policy.

1.2 Convene and organize a stakeholder process on measurements and goals.

After the data sharing legislation is passed into law, there needs to be a stakeholder process for deciding on: (1) The most important measures of employment; (2) determining goals for improvement in those measures over time; and (3) goals, if appropriate, for target populations and geographic areas. Consideration of employment measures could include: income earned, hourly earnings, hours worked, level of integration, type of job, access to employer benefits, duration of employment, advancing on the job, and other employment measures.

Goal 2. Align and incentivize funding for CIE.

There is consensus among stakeholders that the current Regional Center rates for day and employment services do not support CIE outcomes. In addition, the statutory formula for funding supported employment programs (SEP), which is also used by the California Department of Rehabilitation (DOR), discourages CIE as an outcome. Accordingly, in keeping with the implementation of California's Employment First Policy, existing funding needs to be realigned to better support services that lead to CIE.

2.1 Incentivize CIE by increasing the rate for Individual Placement SEP.

Individual Placement (IP) SEP supports people to work at regular job sites integrated into the work site and earning competitive wages. IP SEP is therefore considered CIE and consistent with the Employment First Policy. The rate level for IP SEP has long been recognized as leading to a contraction in the supply of service providers, as the rate is not adequate for the hiring and retention of qualified job coaches. In 2014, the California Disability Services Association (CDSA) reported the results from a survey of their members: they found that SEP agencies on average lose close to \$700 per year per person served in supported employment. Agencies were only able to maintain these services by subsidizing from other parts of their operations, leading to greater stress on the entire organization. Since agencies are penalized for each individual served by IP SEP, they have the incentive to reduce their concentration in CIE and expand their use of segregated employment or non-work day services. This has resulted in very few providers across the states that are willing to provide CIE services to new clients.

Group SEP is usually not CIE, because the individual usually works for the provider agency (not for the business where they work), works as part of a group of individuals with IDD, is less integrated



into the work site, and is often paid subminimum wage. The rates for IP and Group SEP are the same. However, given the same rate, providers have an incentive to develop Group SEP, at the expense of individual placement. It is easier and less costly to hire job coaches for Group SEP, as IP SEP job coaching requires a significantly higher skill level. Supporting people in IP is more complex than Group, as the agency must schedule and train an IP job coach to support several clients in a variety of jobs, locations, and businesses. The agency must also maintain steady hours for job coaches while they fade hours supporting people getting used to a job. In contrast, a Group SEP job coach typically supports 3 or 4 individuals full time, at one employment site, with no fading.

To implement the Employment First Policy, the Lanterman Act would need to be amended to allow for an increase in the IP SEP rate to make individual placement a workable business model for providers and adequately compensate highly skilled job coaches. This rate must be meaningfully above that for Group SEP in order to remove the unintended incentive in the current rates that drives consumers to less integrated, lower paid, and more expensive group placements.

Goal 3. Phase out sheltered work and subminimum wage.

Increasingly, federal policy is finding that sheltered work and payment of subminimum wage are not appropriate employment outcomes. For example, the Workforce Innovation and Opportunities Act (WIOA) places limits on the use of sheltered work and subminimum wage jobs for youth with disabilities. The U.S. Department of Justice ruled that unnecessary segregation in sheltered workshops is considered discrimination under the Americans with Disabilities Act. Additionally, the new (CMS) Final "Settings Rule" for Medicaid waiver services requires states to transition from segregated day settings, such as sheltered workshops, to integrated community settings by March 2019. Consistent with these developments, the SCDD policy on sheltered work and subminimum wage calls for the phasing out of these services.

3.1 California should commit to stop new placements of individuals with IDD in sheltered work.

An important part of phasing out sheltered work is to limit new admissions. Options could include a complete ban on new placements or a ban on new placement of transition age youth, ages 16-30. This could be accomplished through policy changes at the state or local level. For example, Orange County Regional Center has stopped new admissions to sheltered workshops in their catchment area.

3.2 Establish bridge funding for sheltered work facilities to transition to CIE.

Faced with the need to transition to community integrated services, sheltered work providers need the knowledge and the resources to downsize existing operations and start up new operations to support CIE. All of this costs money. DDS should provide incentive payments to providers, use grants, or give a temporary rate increase to fund the costs of transition to CIE.

Goal 4. Repeal trailer bill language prohibiting Regional Center day services for students 18-22 years old.

The Lanterman Act was amended in 2011 to prohibit Regional Centers from funding day and employment services for youth ages 18-22, unless they have completed school with a certificate of completion or a high school diploma. This cost-saving measure is at odds with the efforts at the state and federal levels towards greater integration of services and coordination of transition



preparation and planning. Exceptions to the prohibition that are allowed in law create more paperwork, bureaucracy, and barriers to receiving needed services. These exceptions are not often utilized, and implementation varies across Regional Centers.

One difficulty is that the prohibition discourages DOR from providing services to students with IDD while they are in school. When needed by an individual, DOR will fund a supported employment provider to give intensive job coaching to a person while they are first learning a new job and adjusting to the demands of the work environment. Once the individual is stabilized on the job, typically when job coaching has faded below 20% of hours worked, the responsibility for long-term job coaching, or follow-on support, is transferred to the Regional Center system. However, under current law, Regional Centers are generally prohibited from providing that follow-on service until the youth leaves school at age 22.

As an example of the impact this has, DOR's innovative Transition Partnership Program (TPP) successfully places half of its students with disabilities in CIE. However, the TPP serves very few students with IDD, in part because follow-on services may not be available from the Regional Center until age 22.

This prohibition also limits the ability of schools to prepare students for employment, since it is difficult for them to collaborate with supported employment providers funded by DOR and DDS. It also discourages Regional Centers to engage in transition planning with schools and to support students with ancillary services such as support for summer jobs and transportation to work sites during the transition years.

4.1 Address the barrier in the trailer bill language prohibiting Regional Center day services for students 18-22 years old.

Data from DDS indicates that repealing the prohibition will not be a significant cost to the state, and that enabling students to transition directly to CIE will create significant long-term savings.

Goal 5. Raise and align expectations toward CIE.

Historically, we have underestimated the abilities and interests of people with disabilities, especially those with IDD, to succeed in educational and employment settings. Professionals and families are not familiar with the Employment First Policy. Professionals from different departments often discourage youth and their families from considering CIE

5.1 Inform and train individuals with IDD and their families in the Employment First Policy.

Individuals with IDD and their families need information early on about the Employment First Policy, the possibilities for CIE for all individuals, and the services and supports that can help individuals and their families get there. Service systems respond to demand from consumers and families. Having the knowledge about the possibilities for CIE will lead to people asking for the necessary supports to get there.

SCDD could contribute to this work through expansion of its Employment First/Data Dashboard webpages to include stories of success, best practices, employment resources, and training materials. Also, the Council could use its regional staff to train people at the local level about the Employment First Policy and what it could mean for them.



5.2 Develop a model curriculum for self-advocacy training for special education students that includes Employment First.

The core of successfully preparing students for adult life and its responsibilities is ensuring that they take responsibility and advocate for themselves. Therefore, California must require self-advocacy training for special education students. The model curriculum will include strategies for students to understand their own strengths and needs, identify personal goals, plan for their future, know their rights and responsibilities, advocate for their educational goals, and network with adult role models with disabilities. The curriculum must establish the expectation for Employment First, including the possibility of CIE and the services that can help them achieve it. Students and their families also need information on the management of Supplemental Security Income (SSI) benefits and the use of Social Security Administration (SSA) work incentives. The Council could develop this curriculum through the direct work of staff or through grant funding.

Goal 6. Improve availability of benefits planning information.

Professionals from within education, rehabilitation, and developmental services have long reported that the fear of losing public benefits, such as SSI and Medi-Cal, cause many individuals to never enter the workforce or decide to stay with subminimum wage jobs. Also, family members often discourage individuals from getting work because of their belief that earnings would disqualify them from public benefits.

6.1 Develop a tool on benefits planning resources.

Through the direct work of staff or through grant funding, SCDD could develop a tool that summarizes all the benefits planning resources available to individuals with IDD, family members, and service providers throughout the person's lifespan.

In Closing

Clearly, much work still needs to be done. Improving the employment environment for people with I/DD is a marathon, not a sprint. Cumbersome, underfunded systems and outdated ways of thinking do not change overnight. A convoluted system of laws, supports, and services, that even experts sometimes find confusing, poses many challenges. What happens in California often spreads across the nation. Thus, we must lead rather than follow when it comes to employment for people with I/DD.

One seemingly often neglected piece of the puzzle is the employers themselves. Regrettably, it appears that sometimes employers are not at the table when larger discussions about CIE are taking place. Getting the people who actually create the jobs involved in the ongoing conversation is paramount. When employers share their positive experiences with each other, the employment needle will begin. Hiring individuals with I/DD can enhance a business's bottom line, as people with I/DD are able, dependable, and ready to work.

No single method or organization can solve the problem. It will take a strong collective effort on the part of all stakeholders and interested parties. When it comes to enhancing CIE, we need to distinguish between activity and accomplishment, as good intentions do not always produce good outcomes. Proven best practices coupled with innovative new strategies will result in measurable progress.



Appendix A

EFC GLOSSARY OF TERMS

Activity Based Day Services: See Day Programs

ADA: Americans with Disabilities Act

APSE: Association of People Supporting Employment First

ARCA: Association of Regional Center Agencies

CDE: California Department of Education

CDER: Client Development and Evaluation Report

CECY: California Employment Consortium for Youth

Community Based Non-Work (CBNW) 21: Non-job-related supports focusing on community involvement such as access to public resources (recreational/educational) or volunteer activities.

Community-based non-work includes all services that are located in the community (rather than facility-based) and do not involve paid employment of the participant.

Competitive Employment: Work in the labor market that is performed on a full-time or part-time basis in an integrated setting for which the individual is compensated at or above minimum wage with related health and employment benefits, but not less than the customary and usual wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

Council, The: This term refers to the State Council on Developmental Disabilities

Customized Employment: Customized Employment is based on an individualized determination of the strengths, needs, and interests of the person with a disability, and is also designed to meet the specific needs of the employer. It may include employment developed through job carving, self-employment or entrepreneurial initiatives, or other job development or restructuring strategies that result in job responsibilities being customized and individually negotiated to fit the needs of individuals with a disability.

Day Programs: These are community-based programs for individuals with developmental disabilities. Day program services may be provided at a fixed location or in the community. Some services offered may include developing and maintaining self-help and self-care skills, developing community integration, social and recreational skills; and behavior modification.

DDS: California Department of Developmental Services

Developmental Disabilities: The federal definition of developmental disabilities covers persons whose disability occurs before age 22 and includes a mental or physical impairment or a combination of both. There must be a substantial limitation in three or more of these major life areas: self-care;



expressive or receptive language; learning; mobility; capacity for independent living; economic self-sufficiency; or self-direction. In California law, a developmental disability is more narrowly defined as occurring before the age of 18 and includes specific categories of eligible conditions: mental retardation, epilepsy, cerebral palsy, autism, and "conditions requiring services similar to those required for persons with mental retardation."

DOJ: United States Department of Justice

DOL: U.S. Department of Labor

DOR: California Department of Rehabilitation

EDD: California Employment Development Department

EFC: Employment First Committee of the State Council on Developmental Disabilities

Employment: Employment is an activity performed by an individual where there is an expectation of wages for services rendered and the services are for the primary benefit of the employer.²² Alternatively, employment may refer to any income generating activity such as self-employment and micro-enterprise.

Executive Order (EO): A President's or Governor's declaration which has the force of law, usually based on existing statutory powers, and requiring no action by the Congress or state legislature.

Group Placement Supported Employment: See Supported Employment, Group Placement

I/DD: Intellectual and Developmental Disabilities. Also see definitions for Intellectual Disability and Developmental Disability.

Individual Career Plan (ICP): A term introduced by the World Institute on Disability in their proposal for a Pilot Project to reform federal work incentives. The ICP will be a career planning tool developed to maximize the productivity level of those participating in the proposed Pilot Project. The plan would be developed from a list of available vocational or employment support services.

Individual Placement Supported Employment: See Supported Employment, Individual Placement.

Individual Program Plan: The IPP is an action plan that is developed through the process of individualized needs determination and embodies an approach centered on the person and family. Individuals and family members participate in the planning process. The IPP is a legal document that identifies goals for the individual with developmental disability to live the way he/she wants. The IPP identifies services and supports that will help the individual reach his/her goals as well as participate in the community fully and as independent as possible. Though the Regional Center usually schedules an IPP meeting once every 3 years, the individual or family member can request a planning meeting at any time.

Integrated Competitive Employment: Integrated Competitive Employment (ICE) is work compensated at prevailing wages with related health and employment benefits, occurring in a typical work setting where the employee with the disability interacts or has the opportunity to interact continuously with co-workers who may or may not have a disability, and has an opportunity for



advancement and mobility. Further, integrated competitive employment includes all income generation activities such as owning one's own business.

Integrated Employment: The engagement of an employee with a disability in work in a setting typically found in the community in which individuals interact with individuals without disabilities other than those who are providing services to those individuals, to the same extent that individuals without disabilities in comparable positions interact with other persons.

Integration Mandate: The 'integration mandate' of the Americans with Disabilities Act (ADA) requires public agencies to provide services "in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The goal of the integration mandate is to provide individuals with disabilities opportunities to live their lives like individuals without disabilities. See Most Integrated Setting.

Intellectual Disability: Intellectual disability is a disability characterized by significant limitations both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behavior, which covers a range of everyday social and practical skills. This disability originates before the age of 18.

IPP: See Individual Program Plan

Microenterprise: For the purpose of this report, microenterprises are small businesses owned by individuals with developmental disabilities, with accompanying business licenses, tax-payer identification numbers other than social security numbers, and separate business bank accounts. Microenterprises may be considered competitive employment, integrated employment, and integrated competitive employment.

Most Integrated Setting: A setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.

Motion to Intervene: Normally, a lawsuit involves the plaintiffs (who bring the suit), and the defendants (whom the suit is brought against). Sometimes, a person/entity who is not a party to a lawsuit in progress wants to become a party. Such a party must file a Motion to Intervene.

NCI: National Core Indicators

NCIL: National Council on Independent Living

NGA: National Governors Association

One-Stop Centers: One-Stop Job Centers are government funded job centers that assist workers to locate jobs and help employers find workers. California has over 220 One Stop Job Centers, with at least one in every county.

Projects of National Significance: Through PNS, the Administration on Intellectual and Developmental Disabilities (AIDD) supports the development of national and state policy and awards grants and contracts that enhance the independence, productivity, inclusion, and integration of people with developmental disabilities.



Regional Center: Regional Centers are nonprofit private corporations that contract with the California Department of Developmental Services (DDS) to provide or coordinate services and supports for individuals with developmental disabilities. They have offices throughout California to provide a local resource to help find and access the many services available to individuals and their families. California has 21 regional centers with more than 40 offices located throughout the state.

SCDD: State Council on Developmental Disabilities; the Council.

Sheltered Work Settings/Sheltered Workshops: Sheltered work settings are also known as sheltered workshops, affirmative industries, training facilities, and rehabilitation centers. These facilities generally offer a segregated work setting where individuals with developmental disabilities typically earn subminimum wage engaged in unskilled manual labor.

SILC: State Independent Living Council

Special Education Local Planning Area (SELPA): Each school district belongs to a Special Education Local Plan Area (SELPA). SELPAs are dedicated to the belief that all students can learn and that students with special needs must be guaranteed equal opportunity to become contributing members of society. SELPAs facilitate educational programs and services for students with special needs and training for parents and educators. The SELPA collaborates with county agencies and school districts.

SSA: Social Security Administration

SSI: Supplemental Security Income

SSN: Social Security Number

Subminimum Wage: The Fair Labor Standards Act (FLSA) permits the employment of certain individuals at wage rates below the minimum wage. These individuals include individuals whose earning or productive capacity is impaired by a physical or mental disability, including those related to age or injury, for the work to be performed.

Subminimum Wage Certificate: Certificates issued by the U.S. Department of Labor (DOL) Employment Standards Administration's Wage and Hour Division are required to compensate individuals with subminimum wages (see above).

Supported Employment: Supported employment provides paid work opportunities in the community, using group or individual placements. The services are aimed at finding competitive work in a community integrated work setting for persons with disabilities who need ongoing supports to learn and perform work.

Supported Employment, Group Placement: Group placements consist of training and supervision of an individual while engaged in work as part of a group in an integrated community setting. The ratio of supervision for work crews is set at a minimum of 1:4 and up to 1:8. Individuals on work crews are provided guidance and supervision throughout the course of the work day.



Supported Employment, Individual Placement: Individual placements consist of job placement in community business settings. A job coach meets regularly with the individual to provide training and supervision to help him or her maintain the necessary skills and behaviors to work independently. As the individual gains mastery of the job, the job coaching time and support services are gradually reduced and/or phased out.

Transition: For purposes of this report transition is a systematic, individualized process that incorporates a coordinated set of activities to assist students 16-24 to prepare for life after school.

UCEDD: University Center for Excellence in Developmental Disabilities

WIC: Welfare and Institutions Code

WID: World Institute on Disability

Work Activity Programs: Work activity programs (WAP) provide sheltered employment training for individuals who are not prepared for or who may not desire competitive employment in an integrated community work setting. A WAP serves only individuals served by regional centers and is not time limited. Individuals with developmental disabilities in WAP must be able to work at 10% productivity or better.

Working Age: For the purposes of this report the term working age refers to individuals with developmental disabilities, 18 years and older.

Work Incentives: Special rules make it possible for people with disabilities receiving Social Security or Supplemental Security Income (SSI) to work and still receive monthly payments and Medicare or Medicaid. Social Security calls these rules "work incentives."



APPENDIX B

Membership of the Employment First Committee

Anderson, Tony	The Arc of California
Boomer, Daniel	California Department of Education
Cooley, Lisa	Self-Advocate
Curtright, Denyse	Department of Developmental Services
Hansen, Robin	Center for Excellence in Developmental Disabilities, U.C. DAVIS MIND Institute
Hodgkins, Rick	Self-Advocate, Department of Developmental Services Consumer Advisory Committee
Lapin, Connie	Family Advocate, Autism Society of Los Angeles
Mayer, David	Designee, Employment Development Department (EDD)
Moore, Bill	Department of Rehabilitation
Mudryk, Andrew	Disability Rights California (DRC)
Mulvey, David	Service Employees International Union (SEIU)
Pazdral, Liz	California State Independent Living Council (SILC)
Petrie, Dennis	Employment Development Department (EDD)
Raynor, Olivia	Center for Excellence in Developmental Disabilities, Tarjan Center at UCLA
Ruder, Steve	Designee, Center for Excellence in Developmental Disabilities, U.C. DAVIS MIND Institute
Sarmiento, Debbie	Family Resource Center Network of California (FRCNCA)
Taylor, Robert M.	Self-Advocate



- Vacancy** [California Committee on Employment of People with Disabilities \(CCEPD\)](#)
- Westling, Amy** [Association of Regional Center Agencies \(ARCA\)](#)
- Wheeler, Barbara** [Center for Excellence in Developmental Disabilities, USC UCEDD](#)
- Yung, Vanda** Family Advocate, [Chinese Parent Advocates for the Disabled \(CPAD\)](#)