

PA Employment First Oversight Commission

2021 Report to Governor Wolf and the General Assembly

October 1, 2021

"Employment First ...competitive integrated employment is the first consideration and preferred outcome of publicly funded education, training, employment and related services, and long-term services and support for individuals with a disability."

- Act 36 of 2018

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I. Introduction

A. Act 36 Summary and Purpose

In 2018, Governor Wolf signed a bipartisan bill, with unanimous support from the General Assembly, into law. Act 36 of 2018 is known as the Employment First Act [PA Law 229]. The purpose of the Employment First Act (Act) is to “ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings.”¹

The Act defines Employment First and makes it the official policy of Commonwealth agencies. It addresses several key principles of Employment First regarding access for all Pennsylvanians with disabilities and insists on policy that states:

- 1) Competitive-integrated employment is the preferred outcome for all Pennsylvanians with disabilities receiving most forms of publicly-funded services
- 2) Any state and county agency and entities using public funds (education, training and employment related services, long-term services and supports) is required to make sure that Employment First is effectively implemented, and
- 3) State and county agencies will work together to ensure that resources are managed and allocated efficiently for the support of Employment First.

B. How This Report Fits Into Act 36 Requirements

Section 6 of the Act creates the Pennsylvania Employment First Oversight Commission (Commission or EFOC), which consists of mostly executive and some legislative appointees. The Commission is statutorily charged with the following:

- Establishing measurable goals and objectives governing the implementation of the Act
- Tracking the measurable progress of public agencies in implementing the Act, and
- Issuing an annual report that:
 - Details the progress made on each of the measurable goals and objectives during the preceding fiscal year, and
 - Includes recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

C. Recap Of Key Issues Or Experiences From The First Two Reports

¹ <https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2018&sessInd=0&act=36>

The Commission believes that the enactment of Act 36 of 2018 has been very positive and has succeeded in generating debate and activity in areas of state government that heretofore had been lacking or dormant. At the same time, the Commission believes much more progress can be made and that the potential of Act 36 is far from being realized. The following represents a few key Commission observations based on its experience over the past few years of its existence:

1. Generally, after two reports and lots of activity, the Commission does not have an adequate sense as to whether all of the requirements contained in Act 36 are being implemented. In addition, while some discussion has occurred during Commission meetings, the Commission has never received a written response from the administration as to whether it agrees with the Commission's goals and objectives or its recommendations contained in its reports (and, if it disagrees, then why). These two issues will be discussed more in Section VI of the report and the Commission plans to address them during 2022.
2. One practical consideration, based on its experience of now writing three reports, is that the date by which Act 36 requires the Commission's report to be submitted (October 1) is not aligned well with the realities of receiving relevant, current data from state agencies. While some data produced by the state follows a federal fiscal year (October 1 - September 30) and others a "program year" (or calendar year), much of the data relied upon by the Commission is reported by state fiscal year (July 1 - June 30). In such instances, by the time the data is collected and reviewed by the state agency and then submitted to the Commission, it leaves little time for the Commission to receive the data, review it, discuss it, ask follow up questions, and then use it to inform the drafting of its next annual report. Furthermore, the draft report still requires debate and an approval vote during a Commission meeting. Given the extremely condensed time period, the Commission is often forced to rely on old data (if it has data at all) to inform its work and/or it must execute a very rushed timeline to complete its report. The General Assembly may want to consider moving the October 1 deadline to December 1 or January 1.
3. State agencies' commitment to Employment First. The following represent some themes that rise to the top when considering the Commission's first few years of experience:
 - a. The PA Department of Human Services' (DHS) Office of Long-Term Living (OLTL) continues to make little to no progress as it relates to employment outcomes for people with disabilities through the Community HealthChoices (CHC) program. The situation has gone from bad to worse during the last year. CHC has a number of innovative employment services included as "in-plan services", yet the data show few working-age CHC participants employed or availing themselves of the employment services available to them.

- b. The DHS Office of Developmental Programs (ODP) is doing well with collecting and publishing relevant data and it has made employment services available to its Medicaid-funded home and community-based services waiver participants, enabling them to pursue and achieve competitive-integrated employment. At the same time, the data suggests that the percentage of participants engaged in competitive-integrated employment continues to hover between 15 to 17 percent. Data suggests that the plateauing of progress within ODP may be a product of the COVID pandemic, but the Commission is interested in learning if it is also a result of participants' own choices (informed or otherwise) and/or the slowness or unwillingness of providers of segregated employment options to develop alternatives that would help the people they support find and keep competitive-integrated employment.
- c. The PA Department of Education's (PDE) current Director of Special Education (Carole Clancy) has been a breath of fresh air to a large extent, having pursued changes to data collection efforts to better inform policy makers and educators' work when it comes to Employment First, and working with the PA Office of Vocational Rehabilitation (OVR) to establish Memorandums of Understanding to improve interagency collaboration (e.g., transition services). At the same time, the Commission would like to learn more about whether and to what extent those in high positions of leadership within PDE understand Employment First and the requirements of Act 36 with which their agency must comply. The Commission would look forward to hearing from the Secretary of Education about any steps his agency has taken to challenge each school district to reexamine and retool their education programming for transition-age students (ages 14-22) so that their singular goal for each student with a disability is to leave high school with a competitive-integrated job (or a post-secondary education placement intended to lead to a competitive-integrated job). The Employment First policy is not only statutorily required, but it represents a leadership opportunity that must be realized at the highest levels of the education department.
- d. The Governor's Office of Administration (OA) has taken some steps in the right direction (e.g., working on the development of a data dashboard; centralizing accommodations requests through the Office of Equal Employment Opportunity; hiring a Chief Accessibility Officer and diversity recruitment officers, and taking initial steps to create "customized employment" opportunities for applicants with disabilities within state government). However, progress on these and corresponding data collection efforts has been slow, which is disappointing. The Commission believes Act 36 affords Pennsylvania the opportunity to be a national

leader and for its state government to be a model employer (when it comes to the recruitment, interviewing, hiring, onboarding, and retention of state workers with disabilities). As the third year of its existence comes to an end, the Commission hopes OA will fully seize these opportunities.

- e. The PA Office of Vocational Rehabilitation is the state government's lead disability employment agency, and as such it has the singular mission of assisting people with disabilities get and keep employment. In that vein, the Commission does not question OVR's commitment or staff expertise to increase successful employment outcomes for people with disabilities. That said, based on the Commission's experience during its first few years of existence, the greatest opportunity before OVR is to improve its customers' experience. For far too long, the "knock" on OVR has been that it is fraught with bureaucracy, complicated processes and procedures, and a general lack of sensitivity to the urgency felt by the adults with disabilities or transition-age students in high school (and their parents) whom OVR exists to serve. This is not necessarily a criticism of OVR's employees but rather it's a result of the system that has been built, which seems to prioritize the bureaucracy over customer experience.
4. The EFOC acknowledges the work of the General Assembly to improve employment outcomes for people with disabilities. Specifically, *Act 69 of 2021, Medical Assistance for Workers with Disabilities: Workers with Job Success* was passed by unanimous vote by the legislature and signed into law on July 1, 2021. This was a recommendation of the EFOC in its 2020 report. This new law is a significant step forward, allowing individuals to earn more and save more without the risk of losing life-sustaining Medical Assistance health care or home and community-based services. (Additional safeguards are being recommended by the EFOC to ensure that these employees do not risk losing insurance or waiver services.) In addition, the new Employment and Unemployment Subcommittee in the House Labor and Industry Committee will be a new level of oversight as it relates to state Employment First policy and activities. Finally, the EFOC is excited about the development of the Disability Employment and Empowerment Caucus, chaired by Representatives Klunk and Benham. This bipartisan, bicameral group will work directly with the disability community to review current legislation, host hearings, and develop policies necessary to improve the employment outcomes of people with disabilities in Pennsylvania.

D. Acknowledgement Of Administration Staff Who Provide Support To The Commission

The Commission would like to acknowledge and thank the staff in the Governor's Policy Office who over the previous year have supported the work of the Commission by providing assistance with Commission data requests, coordinating Commission meeting attendance from the state agencies involved in disability employment, printing and

distributing this report, and scheduling Commission meetings (and all that goes along with it, which includes arranging CART service, meeting venues, publishing meeting notices as required by law, etc.). During the past twelve months, we have received support from Allison Jones, Tara Williams, and Mary Dougherty in the Governor's Office. In addition, while too numerous to mention, thanks and appreciation go to everyone in the several state agencies that have been involved with the Commission and supported its work and purpose.

Looking forward, the Commission believes the staff support being provided by the state (as required in Section 6.f of the Act) needs to be examined, specifically as it relates to data requests, both in terms of the timeliness of receiving data from the several state agencies and in terms of receiving it in a way that is formatted and usable by the commission. The Commissioners are volunteers, and during the first three years too much time has been spent by the Commissioners simply trying to get, and then identify and decipher, the data received in response to its request. Data should be received by the Commission in a timely manner, formatted in the manner requested, and provided for the previous three years side-by-side so that progress (or the lack thereof) can be analyzed, as required by the Act.

II. The Past Year – COVID-19 Pandemic & Impact on the Economy

The national and state public health emergencies declared in early March 2020 crossed-over into the twelve-month period covered by this report. While the initial, most stringent, government "lock-down" policies that marked the initial months of the pandemic had eased during the summer of 2020 due to the lessened number of COVID-19 cases, virus spread started to increase significantly during the fall of 2020. Government-imposed "work from home" requirements and capacity limits that adversely impacted mostly smaller businesses continued through the spring of 2021. This had a devastating impact on the ability of businesses to sustain operations and/or keep staffing levels at full capacity. In the private-sector economy, workers with disabilities were hit harder than workers without disabilities as they were often the first to be furloughed and last to be asked to return.

Vaccinations started with health care workers in late December 2020. The country witnessed the mass vaccination of the citizenry during the first quarter of 2021. By summer of 2021, most government-imposed mitigation mandates were being rescinded as the spread of COVID-19 dropped precipitously. As a result, economic activity was allowed to return unfettered by government restrictions and the unemployment rate started to come down. National statistics showed that the unemployment rate for people with disabilities also started to lessen, albeit with a lag time compared to workers without disabilities.

Unfortunately, as this report is being written, the COVID-19 Delta variant is spreading and causing case numbers to again rise. Spread appears to be mostly in the unvaccinated population, which consists of all children under age 12 (who are not currently eligible for the vaccines) and between 30-35% of adults and people between 12 and 17². While public health experts are saying that the “Delta variant” is more contagious, there is less clarity about its severity as compared to the original virus. And, while vaccinated people can get the Delta variant, health experts say that the vast majority of vaccinated people will not experience severe symptoms or death as a result of contracting the virus.³ Nevertheless, as this report is being written, some states and local municipalities are reinstating some mandatory restrictions. This is creating uncertainty, and the continued rebound of the economy is in question. It remains unclear how this latest development and the resultant reaction from the government will impact workers with disabilities in the short or long term.

III. Reaction To Governor’s Office Report

In Section Four (specifically subsections f, g, i & j) of the Act, the Office of the Governor was required to develop an initial three-year plan to implement Employment First and submit it to the General Assembly. The plan was to identify specific policies and implementation dates for State agency compliance with the Act. This section of the Act also requires the Office of the Governor to submit an annual report to the General Assembly, and it should include:

- Clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment developed by State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability
- An assessment of progress toward meeting these goals annually, and
- Documentation of continued and improved State agency compliance with the Act.

The Commission acknowledges that the initial plan required by the Act was completed in good faith and contains a number of activities that, if implemented, would likely move the needle when it comes to increasing the number of Pennsylvanians with a disability working in competitive-integrated employment. Unfortunately, during the subsequent years, the publicly available plan fails to include (in a manner satisfactory to implement the Act) the required “clear outcome expectations” as well as complete

² New York Times. “Who Are the Unvaccinated in America? There’s No One Answer.” July 31, 2021 (Updated August 4, 2021)

³ [Centers for Disease Control](#)

information in terms of progress being made on several initiatives contained in the plan. In short, while some state agencies seem to be trying to take the Act and its purpose seriously, overall the requirements in sections 4f, g, i, and j of the Act are not being honored as written or intended, in the Commission’s estimation.

iv. Measurable Goals & Objectives

(Note: This year, the Commission is combining both goals and objectives under the heading, “Measurable Goals and Objectives.” This is being done based on a plain reading of the Act (as opposed to separating “Measurable Goals” from “Objectives”). Therefore, the Commission reviewed last year’s “objectives”, and if it was one that it wanted to keep and it was measurable, then the objective was moved to “Measurable Goals and Objectives.” For objectives the Commission wanted to keep but were not measurable, they were turned into a “recommendation.”)

- A. **By 2022, 30% of working age individuals (ages 18-64) who are on an Intellectual Disability/Autism waiver (enrolled with ODP) will have Competitive Integrated Employment.**

ODP had been making slow but steady progress prior to this latest data. The point-in-time snapshot of data for this measurable goal was taken December 31, 2020, which was right in the middle of the most challenging time of the COVID-19 pandemic. As Pennsylvania’s economy continues to grow and return to pre-pandemic strength following the rescission of Governor Wolf’s mitigation requirements on Memorial Day (2020), the Commission hopes and expects the data will return to, or exceed, the 17% rate that existed at the end of 2019.

Number/Percent of Working-Age Individuals Enrolled with ODP that have Competitive-Integrated Employment, 2017-2020

	Number of Working Age (18-64) Individuals Enrolled with ODP that have Competitive Integrated Employment	Percent of Working Age (18-64) Individuals Enrolled with ODP that have Competitive Integrated Employment
As of December 31, 2017	5,670 Individuals	14%
As of December 31, 2018	6,470 Individuals	15%

As of December 31, 2019	7,136 Individuals	17%
As of December 31, 2020	6,261 Individuals	14%

- Includes working age (ages 18-64) individuals in Consolidated, Community Living, P/FDS, and Autism Waivers as well as those receiving base funding and SC-only services
- Data source: HCSIS; Individual Monitoring Employment Question #1 – “Is the individual working in a competitive-integrated job?”
- Number of individuals enrolled with ODP, served in the community, ages 18-64 as of December 31, 2020 = 43,273 (Data source: HCSIS)
- Data is point in time as of December 31, 2020

One area of note based on other data provided by ODP is that, of the 67 counties in Pennsylvania, 11 counties have a greater percentage of people receiving prevocational services (within the Community Participation Support service definition) than they do who have competitive-integrated employment. Prevocational services tend to be provided in segregated settings, such as licensed vocational facilities. Those counties are the following:

- Armstrong/Indiana joinder
- Cambria
- Crawford
- Franklin/Fulton joinder
- Lawrence
- Mercer
- Tioga
- Westmoreland
- Venango

The Commission encourages ODP to examine the data and determine what dynamics may be occurring in those 11 counties to have so many people receive prevocational services relative to the 57 counties in which more people are working in a competitive-integrated job.

B. By 2022, 3000 more individuals (ID/Autism) who have an employment goal in their ODP Individual Support Plan (ISP) will be receiving employment services.

It is positive that the number of employment services authorized in ISPs for people receiving ODP community-based services is increasing year after year. Unfortunately, the data received is for “authorized” services and not for services “delivered/received.” In next year’s report, the Commission will request BOTH authorized employment services AND delivered/received employment services so that it can ascertain if there is a significant difference between the two numbers. If there is, then the Commission will indeed want to explore why and consider recommended actions to ensure that

employment services are being delivered when there is a desire to work and a need for employment services to make it happen.

Number of Individuals with an Employment Goal and Number of Individuals with ODP Employment Services on their ISP, 2018-2020

	December 31, 2018	December 31, 2019	December 31, 2020
Number of Individuals with an Employment Goal on Their ISP	13,052	13,505	13,559
Number of Individuals with an ODP Employment Service	4,744	5,279	5,421

- Includes individuals ages 18-64 served in the Consolidated, Community Living, Person/Family Directed Support (P/FDS), and Adult Autism Waivers as well as those receiving base funding and SC only services.
- Data in the table is point in time.
- “Authorized Services” includes Advanced Supported Employment, Supported Employment, Career Planning (AAW only), and Small Group Employment
- Some ODP services, such as Small Group Employment and Community Participation Support prevocational services, require the individual to have an employment outcome in their ISP in order to receive the service.
- Data source: HCSIS. Supports Coordinators have been instructed to use the below guidance:

Does this consumer have employment goals Yes No

Goals could be whether the individual would like to: explore competitive integrated employment, increase or decrease hours of current employment, change jobs, career advancement, etc.

C. 100% of all referrals to OVR through Pennsylvania’s 511 efforts (persons requesting to leave sheltered workshops) will achieve Competitive Integrated Employment within 1 year. High Priority

Based on the aggregate data provided, the number of people who requested assistance via the 511 program⁴ went down from 287 to 135. This represents over a 50% reduction. It is not clear what caused this reduction; reasons may include a lessened interest in competitive-integrated employment by those receiving services in a segregated, subminimum wage environment, fewer numbers of sheltered workshops in operation, dynamics associated with the COVID-19 pandemic, or poor performance among OVR

⁴ Section 511 of the Workforce Innovation and Opportunity Act Requires state Vocational Rehabilitation Offices to visit sheltered workshops and provide information to participants about competitive-integrated employment services and opportunities. <https://www2.ed.gov/about/offices/list/osers/rsa/publications/csavr-2016-section-511-subminimum-wage.pdf>

511 staff charged with speaking with sheltered workshop participants to explain their options to explore competitive-integrated employment.

(Note: Last year's data from OVR was given to the Commission by county. This year, the Commission was only given aggregate numbers for the entire state. Having data by county aids in the Commission's ability to analyze the data in a way that might show disparate treatment based on geographic region and/or district office within OVR.)

It is also very disconcerting that among the 135 people in the sheltered workshops who expressed interest in competitive-integrated employment via the 511 program, only 3 were receiving a service from OVR when this data was extracted (one was in a trial work experience and two were receiving counseling).

511 Program Case Referral Outcomes for State Fiscal Year (SFY) 2020

Most Recent SFY 2020 Status	Status Definition	Number of Cases
-2	Pre-Application Closure	18
-1	Pre-Application	16
00	Referral	34
02	Applicant	4
06	Trial Work Experience	1
08	Closed, Ineligible	57
10	Acceptance	0
11	Waiting for Services	2
14	Counseling & Guidance	2
16	Physical & Mental Restoration	0
17	Training - High School	0

18	Training - High School	0
20	Ready for Employment	0
22	In Employment	0
26	Closed, Rehabilitated	0
28	Closed Unsuccessfully After Services	0
30	Closed Unsuccessfully Before Services	1
32	Post-Employment Services	0
TOTAL		135

- D. **Annually decrease segregated employment by a minimum of 10%. Map by county, the total number of individuals served by state and local dollars in competitive integrated employment services versus number of people in facilities services (14c) segregated settings.**

The Commission has realized the data it has been requesting during the past two years may be incomplete in so far as it seems to be failing to paint an accurate picture of this measurable goal. Simply having the number of licensed vocational facilities (2390s) and the number and percent of ODP waiver participants receiving prevocational services is not likely to tell the full story. Take for example "Erie County "; the data shows zero 2390s in Erie County and zero people receiving prevocational services. At the same time, the Commission finds it hard to believe there are zero people in Erie County being paid subminimum wage in a non-integrated setting who are being supported in those settings with ODP waiver or county base funding. During 2022, the Commission will need to explore in greater detail how many people with disabilities are being paid subminimum wage in a non-integrated setting, which waiver or base-funded services are supporting people in such arrangements, and which facilities other than a 2390 permit such arrangements with the support of waiver or based-funded services.

As for the data, the following was provided by ODP showing the number of 2390s by county:

Service locations licensed under 55 Pa. Code Chapter 2390 (licensed Vocational Facilities)

Central Region		Northeast Region		Southeast Region		Western Region	
Adams	1	Berks	2	Bucks	9	Allegheny	9
Blair	1	Lackawanna	1	Chester	13	Armstrong	1
Cambria	2	Lehigh	3	Delaware	8	Beaver	1
Centre	1	Luzerne	5	Montgomery	14	Butler	1
Columbia	1	Monroe	1	Philadelphia	11	Clearfield	1
Cumberland	2	Northampton	2	Total	55	Crawford	1
Dauphin	2	Pike	1			Elk	2
Franklin	2	Schuylkill	6			Greene	2
Huntingdon	1	Tioga	2			Indiana	1
Juniata	1	Wayne	1			Jefferson	1
Lancaster	7	Wyoming	1			Lawrence	3
Lebanon	1	Total	25			McKean	1
Mifflin	2					Mercer	2
Northumberland	1					Venango	1
York	2					Westmoreland	8
Total	27					Total	35

Statewide = 142

Source: ODP Data Compiled for EFOC July 2021 (These facilities in use as of July 2021)

Number and Percent of Working-age Individuals with Competitive Integrated Employment and Number and Percent of Working-age Individuals in Prevocational Services - by County

County/Joinder	Number of Individuals Enrolled with ODP	Number of Individuals that received CPS prevocational services	Percentage of Individuals that received CPS prevocational services	Number of Individuals with Competitive Integrated Employment	Percentage of Individuals with Competitive Integrated Employment
Allegheny	4,731	275	5.8%	726	15.2%
Armstrong/Indiana	561	85	15.2%	41	7.3%
Beaver	595	80	13.4%	89	15.0%
Bedford/Somerset	482	13	2.7%	49	10.2%
Berks	1,386	16	1.2%	187	13.5%
Blair	556	42	7.6%	71	12.8%
Bradford/Sullivan	340	0	0.0%	39	11.5%
Bucks	1,719	172	10/0%	315	18.3%
Butler	586	43	7.3%	100	17.1%
Cambria	472	88	18.6%	33	7.0%
Cameron/Elk	115	19	16.5%	20	17.4%
Carbon/Monroe/Pike	919	31	3.4%	100	10.9%
Centre	367	31	8.4%	78	21.3%
Chester	1,413	106	7.5%	263	18.6%

Clarion	183	**	**	**	**
Clearfield/Jefferson	397	27	6.8%	58	14.6%
Columbia/Montour/ Snyder/Union	564	18	3.2%	96	17.0%
Crawford	374	71	19.0%	45	12.0%
Cumberland/Perry	798	78	9.8%	173	21.7%
Dauphin	1,001	37	3.7%	205	20.5%
Delaware	1,755	45	2.6%	285	16.2%
Erie	1,917	0	0.0%	283	14.8%
Fayette	453	**	**	48	10.6%
Forest/Warren	155	**	**	13	8.4%
Franklin/Fulton	494	68	13.8%	47	9.5%
Greene	93	**	**	**	**
Huntingdon/Mifflin/ Juniata	443	54	12.2%	54	12.2%
Lackawanna/ Susquehanna	886	64	7.2%	90	10.2%
Lancaster	1,419	118	8.3%	244	17.2%
Lawrence	369	83	22.5%	53	14.4%
Lebanon	409	26	6.4%	115	28.1%

Lehigh	1,145	101	8.8%	153	13.4%
Luzerne/Wyoming	1,296	93	7.2%	147	11.3%
Lycoming/Clinton	531	0	0.0%	72	13.6%
McKean	219	**	**	11	5.0%
Mercer	466	78	16.7%	59	12.7%
Montgomery	2,510	219	8.7%	412	16.4%
Northampton	800	71	8.9%	111	13.9%
Northumberland	402	31	7.7%	68	16.9%
Philadelphia	5,827	152	2.6%	693	11.9%
Potter	43	0	0.0%	**	**
Schuylkill	497	38	7.6%	46	9.3%
Tioga	159	47	29.6%	21	13.2%
Venango	220	28	12.7%	27	12.3%
Washington	493	18	3.7%	75	15.2%
Wayne	188	0	0.0%	33	17.6%
Westmoreland	1,107	215	19.4%	166	15.0%
York/Adams	1,418	46	3.2%	234	16.5%
Statewide Unduplicated Count:	43,273	2,844	6.6%	6,269	14.5%

- As of December 31, 2020

- All data includes only working age (18-64) individuals in Consolidated, Community Living, P/FDS, and Autism Waivers as well as those receiving base funding and SC only services
- By county with which they are registered
- Data source for competitive integrated employment: HCSIS; Individual Monitoring Employment Question #1 – “Is the individual working in a competitive-integrated job?”
- Data source for CPS prevocational services: PROMISE; at least one paid claim in a CPS prevocational setting between October 1, 2020 and December 31, 2020

Public Funding Questions About Other Sheltered Workshops and Services

The Commission invited DHS to the January 2021 meeting to address questions from previous report about 14c subminimum wage locations listed by the U.S. Department of Labor in acute mental health hospitals or other facilities funded by DHS Office of Mental Health and Substance Abuse Services (OMHSAS), who reported the following:

(Restated from the January 2021 EFOC meeting transcript) There are no longer 14c (state and federally funded) sheltered workshop sites in the state system of hospitals or state centers. There are still workshop sites in our state system of hospitals and centers [paying minimum wage]. The Clark summit state hospital is the last one to have a [14c subminimum wage] sheltered workshop license in place [with the federal government], but the [actual] contract does ensure that the persons working there receive minimum wage. Residents at the state hospital system are there under a court order. That the ability to move the person to a community setting for work may involve the intervention of a judge. It was also contended that patients have very short stays and be residents of another area of the state. Another determining factor may be their interest in seeking employment. State hospital residents are offered the ability to engage in employment and workshop services are available for them. OVR’s 511 employees work with the state hospital social workers to ensure employment is a component of the discharge plan, typically finalized 30 days prior to exit from a state hospital. Apparently, perhaps even a decade ago, it was shared, there were additional arrangements that allowed residents employment outside of the state hospital system, called Live In, Work Out and believes there is interest in supporting employment external to the facility again.

A review of the USDOL data on September 4, 2021 reveals that the license is pending not only for Clarks Summit, but also for Warren State Hospital.⁵ (DHS states that the pending 14c certificate requests for these locations are for the 2020-21 year to cover the period of time that they were still paying less than minimum wage; however, both locations stopped paying less than minimum wage in January 2021; and, once the pending certificates for 2020-21 are processed, there will be no further applications for certificates for 2021-22 and forward.) There

⁵ <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders>

are also workshops very close to the hospital system. The Commission would hope DHS will develop plans for anyone interested in competitive-integrated employment.

That being said, the total numbers for all of Pennsylvania sheltered workshops taken from the USDOL at a similar time in 2020 for workers receiving subminimum wages have dropped precipitously to 2064 persons. While this shows progress toward the goal, it also brings up the need to understand whether this is a function of Employment First policy, COVID-19 related fears of attending programs, or temporary shuttering of workshops due to COVID-19. It will also be determined whether the pandemic in fact created an impetus for agencies to rethink their segregated models, due to low enrollment during this time. Only 63 14c settings are listed this year compared to 79 in 2020.

E. By 2022, no student who is being educated in an inclusive setting will transition to a more segregated setting (i.e. from pre-school to school age; school age to middle school; middle school to high school).

Current success in an inclusive setting should indicate opportunity for future success in the community, especially given the right educational program supports.

The Commission recognizes there is publicly available data but it requires analysis and support from the Department to understand when these transitions to segregation are happening for students. Anecdotally, the Commissioners are aware that parents and/or school teams may push for more segregated settings due to any number of factors. Several have reported schools claiming they don't have the resources to support a student as they were previously supported and included; parent and school fears about 'safety' as children get older move to new environments with peers (middle/high school); not the right program (i.e. segregating students previously taught in typical peer classroom) moving to Life Skills with all students with disabilities for middle and/or high school. Even glitches in the system that allow a student to effectively and positively access the college campus for transition with support from a more segregated setting on the college campus itself (even if they rarely utilize that room). There are a lot of factors to evaluate.

The Commissioners still need clarification on the students that transfer to more segregated Approved Private Schools at these junctures. The Commission understands that families are part of the decision making process, but it is important to know if adequate resources were used to ensure full participation.

The Commission requests a report from PDE/BSE for its January 2022 meeting and would make itself available to provide input on information needed. The report should include what the Department is doing to mitigate segregation at these junctures and their action plan for improvement.

- F. **By 2022, 20% of all high school graduates (senior year up to age 21) receiving transition services from PDE, OVR and/or ODP will be competitively employed in an integrated setting within 3 months of graduation.⁶**

This measure is now directly collected by schools and is reflected in Act 26 data.

According to OVR's sampling of eligible students, 1,403 unique students entered competitive integrated employment within 3 months of graduation. This will be the baseline number for future analysis.

- G. **Each year, the Commonwealth will steadily increase access to competitive-integrated public and private employment for high school students with disabilities with funding and/or support from either OVR or PDE. This can be in the form of a Work-Based Learning Experience or a job with job coaching and/or other supports. First year goal 2000 students; Second year goal 2500 students; 3rd year goal 3000 students.⁷**

This year, OVR and Pre-ETS data for Act 26 includes the total of "unique" student participants served for this measure, which will be the baseline going forward. OVR served 1141 students with part time or summer jobs and 862 individuals received job coaching.

- H. **Annually each of the Community HealthChoices (CHC- AmeriHealth Caritas, PA Health and Wellness, Keystone First, UPMC) OLTL managed care organizations will ensure that at least 200 additional CHC participants are competitively employed.**

According to data provided by OLTL, 266 CHC participants were employed in competitive-integrated employment.⁸ While this is up from 128 reported in last year's report, the 266 represents only one-half of one percent of working-age CHC participants. (OLTL: There are 53,243 participants ages 21-64 enrolled in CHC [data for those ages 18-20 not included as CHC only serves people ages 21 and old].)

- o The Commission established a goal of 200 additional participants per year achieving CIE because it believed it was reasonable given the infancy of the program and that it was attainable.

As poor as it is, the total number of working-age CHC participants employed in a competitive-integrated job does not paint the entire picture. Other data from OLTL indicates poor performance by the CHC managed care organizations and OLTL in terms of providing accountability. For example, typically the kinds of actions that lead to a successful CIE outcome are first having employment as a goal in one's service plan. Then, if one has an employment goal but no job, then typically the person's service plan would have employment services authorized and provided in order to help the person

⁶ Act 26 Data -OVR provided Act 26 Data to the Commission in August 2021

⁷ Act 26 IBID.

⁸ OLTL "Ops 22" data provided to the Commission in August 2021

move toward getting and keeping a job. As OLTL's data indicates, the number of people who had an employment goal went up during the last year, but the number of actual employment services authorized and/or provided went down during the last year. On its face, it seems inexplicable why a Service Coordinator would include an employment goal in a person's service plan but then fail to authorize an employment service and/or ensure needed employment services are provided. The Commission looks forward to hearing from OLTL and the MCOs about the reasons (based on information documented in service plans) causing such results.

Number and Percent of Working-Age Individuals Enrolled in an Office of Long-Term Living (OLTL) Waiver in a Competitive-Integrated Job⁹			
Enrollees with a Competitive-integrated job	2018	2019	2020
# in competitive-integrated Job	DNP	DNP	266
as a % of Total Waiver enrollment	DNP	DNP	0.50%
Annual Waiver Enrollment	DNP	DNP	53,243

Number of Individuals in an Office of Long-Term Living (OLTL) Waiver with an Employment Goal in Service Plan¹⁰			
Employment Goal in Service Plan?	2018	2019	2020
Yes	359	DNR	803

⁹ Ops 22 report; data includes only from CHC; data for OBRA waiver not provided by OLTL; data is for ages 21-64 only as CHC only serves people ages 21 and older (OBRA serves ages 18-20 but data not provided by OLTL for this report).

¹⁰ Ibid.

Annual Enrollment of Individuals with Employment Services Authorized in their Service Plan While in an Office of Long-Term Living (OLTL) Waiver¹¹			
Employment Service Authorized in Service Plan?	2018	2019	2020
Yes	DNP	DNP	69

Annual Enrollment of Individuals Receiving Employment Services While in an Office of Long-Term Living (OLTL) Waiver¹²			
Employment Services Provided	2018	2019	2020
Paid Encounter Data	101	116	74

DNP = Data Not Provided As Requested

The Managed Care Organizations under contract with OLTL to provide in-plan services are the following:

- AmeriHealth Caritas (also known as Keystone First CHC in other regions of state)
- PA Health and Wellness
- UPMC

Employment services are required under the CHC Contract and part of the capitated payments managed care organizations receive to support individuals with disabilities.¹³ The CHC MCOs need to make a concerted effort to make this a priority, and/or OLTL needs to enforce this as part of the CHC program oversight.

- I. **OMHSAS (Office of Mental Health and Substance Abuse Services) will annually report and transition at least 600 additional mental health consumers to employment.**

¹¹ Ibid.

¹² Ibid.

¹³ CHC Agreement: <https://www.dhs.pa.gov/HealthChoices/HC-Providers/Documents/2021%20CHC%20AGREEMENT.pdf> The CHC-MCO must include employment-related needs and service requirements of Participants as part of the person-centered service plan. Details are found on page 118.

Data was provided by the PA Office of Mental Health and Substance Abuse Services (OMHSAS) last year, broken down by total persons receiving OMHSAS and employed, as well as those numbers separated by employed with mental health only and those employed with substance use disorder only. This year, the Commission was informed by the state that last year's source of data is not reliable for complete information and as such the Commission cannot report on any measurable progress. However, the Commission was informed that OMHSAS is now requesting a more comprehensive set of employment data through their annual county report, which were due to be returned at the end of July 2021. The Commission's understanding is that not all counties completed these reports; we commend those counties that provided their data and encourage others to complete this reporting request in accordance with Act 36.

J. By 2022, the Pennsylvania state workforce [includes state agencies and state colleges/universities] will exceed a 7% hiring goal.

In 2019, the Commonwealth reported surveying its 77,000 person workforce and received responses from roughly 14% of employees. The data had indicated approximately 4.8% of Commonwealth employees identified as having a disability. This was the same data from the Commission's 2019 report. OA told the Commission they had planned to send out the survey and assess again in October 2020 but that apparently did not appear. For this year's 2021 report, OA reported that the Commonwealth added a question about disability to its applicant tracking system in 2020, which would provide "a solid annual comparative data point starting in 2022." The Commission looks forward to when OA can produce this data.

In last year's report, OA told the Commission it was updating its new-hire HR form to include a checkbox so new Commonwealth employees could self-disclose a disability during the on-boarding process and that this option should be available in the fall of 2020, but no such data was made available. For this year's 2021 report, OA again reported it would add a question about disability to its new hire onboarding process, saying it would provide a "corroborating data point to enable consistent year-to-year analysis." According to OA, the self-disclosure of disability question was added to the commonwealth's online onboarding process effective June 2021 and it anticipates having sufficient data to preliminarily ascertain progress in the latter half of 2022.

Finally, with respect to the 77,000 figure cited by OA, the Commission received confirmation from OA that the figure includes both salaried employees and "wage" employees; not included are state employees who work for agencies not under the Governor's jurisdiction (e.g., all state colleges and universities within the PA State System of Higher Education, Department of Treasury, Attorney General's Office, Auditor General's Office, etc.). This raises the question as to whether Act 36 is applicable to state agencies not under the Governor's jurisdiction, and what role the Commission has relative to implementing the provisions of the Act as it pertains to those agencies.

K. Within one year, all counties will have (or be part of) at least one Local Cross-Disability Employment Coalition.

As of July 16, 2021, the Department of Human Services reported that 54 out of 67 counties have created or participate in an existing local-level interagency employment coalition. This is up from 42 listed in last year's report. Clarification was requested from DHS as to whether Local Transition Coordinating Councils were counted as an employment coalition and the answer the Commission received was yes. The Commission agrees that an LTCC can function as an effective employment coalition so long as it includes adult disability service providers and other relevant stakeholders.

v. Recommendations

Recommendations for the PA General Assembly:

- A. Recommendation. The Employment and Unemployment Subcommittee of the House Labor and Industry Committee should hold a legislative hearing** on Section 4, subsection h of Act 36 of 2018 to hear testimony from the Governor's Office of Administration, the Civil Service Commission, and other state agencies to learn the actual number of employees with disabilities in state government and the efforts they are making to employ people with disabilities in at least 7% of the state government jobs.
- Section 4, subsection h(1) of Act 36 of 2018, says "state agencies shall make an effort to employ individuals with a disability in no less than 7% of the overall state workforce.
 - Section 4, subsection h(2) of the Act requires state agencies to "review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.
 - Section 4, subsection h(4) of the Act requires the Office of Administration (OA) to "develop a framework for individuals to self-report a disability."
 - Section 4, subsection h(5) of the Act requires the state Civil Service Commission to "review and consider changes in its policies and procedures in order to support progress towards the initial goal" of 7%.
- B. Recommendation. The General Assembly should hold a hearing to examine employment data, employment service utilization, and employment outcomes for working-age participants in the Community HealthChoices (CHC) program. In its testimony, OLTL should be asked to delineate the steps it has been taking to increase employment outcomes for its working-age CHC participants and the results of those steps.** According to its own data, OLTL has failed when it comes to increasing employment service utilization and employment outcomes for working-age people with disabilities served in CHC. The data last year was extremely poor, and this year the data

is even worse. The Act establishes policy that employment should be the first consideration and preferred outcome of the public funds being used in the CHC program, and employment services are included as in-plan services that can be used by the Managed Care Organizations in CHC, yet no progress is being made. OLTL is failing to hold MCOs accountable.

- **According to data provided by OLTL**, very few participants in CHC are working and/or receiving employment services. There are 53,243 working-age people enrolled in CHC, but only 803 participants have an employment goal in their Individualized Service Plan. Inexplicably, only 74 are receiving an employment service. In all, only 266 of the 53,243 working-age participants in CHC have competitive-integrated employment, which is 0.5%.

- C. Recommendations. The state House or Senate should pass a resolution directing the Legislative Budget and Finance Committee to study and report on the return on investment (compared to traditional customer services delivered by OVR) of the Office of Vocational Rehabilitation’s Hiram G. Andrews Center (HGAC).** There are presently only 7 other facility-based programs like HGAC nationally. The Commission believes it is timely and appropriate to conduct a meaningful review of this program and its return on investment (ROI). Approximately \$23 million is currently being directed from OVR’s budget to fund this 24/7 campus operation. The per-customer cost for HGAC is significantly higher than non-HGAC customers, yet it is unclear what value graduates of HGAC are getting as compared to non-HGAC customers or those OVR customers who attend traditional post-secondary vocational programs. The review should consider whether these resources could be effectively re-directed to traditional OVR services and/or regional or county career technical programs and/or community colleges where individuals with disabilities can learn alongside other students, which will enhance their skills to work and stay in the communities where they live.
- D. Recommendations. That the General Assembly pass legislation that requires** each school district to have a full-time dedicated and highly qualified and/or credentialed Transition Coordinator to support employment, and requires the Pennsylvania Department of Education to ensure compliance with that requirement.
- E. Recommendation. That the General Assembly amend Act 36 or the recent Civil Service Reform Act to make it easier for people with disabilities to be hired by state government agencies.** By creating something similar to the federal government’s “Schedule A” process¹⁴ (a special appointing authority that agencies can use to non-competitively appoint individuals who have a significant disability), qualified applicants with a disability would have bureaucratic barriers eliminated or mitigated, giving them access to good jobs in state government. In addition, if the legislature pursues such legislation, it ought to also include a section that implements Recommendation DD contained in this report pertaining to “customized employment.”

¹⁴ <https://www.usajobs.gov/Help/working-in-government/unique-hiring-paths/individuals-with-disabilities/>

- F. Recommendation.** New legislation should be introduced to add additional safeguards to medical assistance for workers with disabilities. This legislation should include information on when an employee would move to paying the full state premium for their services, include funding for training and education materials on MAWD, allow individuals to enter the workers with job success category with assets earned by working in MAWD, and should include a grace period that would allow individuals to remain on MAWD for a period of time if they no longer met the eligibility criteria for this program.

Recommendations for state agencies in the executive branch:

- G. Recommendation. Create Real Cross Agency Collaboration and Coordination.** Both the Act and the federal Workforce Innovation and Opportunity Act either explicitly or implicitly require that barriers between agencies be removed between service systems to support employment success. The total workforce system in Pennsylvania is to support all people, including people with disabilities. State agencies should demonstrate that those collaborations and systems' changes are working. The Act requires "a review and alignment of service definitions, policies and payment structures within and across State agencies." It is essential as a first step for agencies to develop a specific *cross agency collaboration system*—to focus on employment.
- Section Five of the Act establishes the Governor's Cabinet for People with Disabilities, the duties of which are enumerated. Cross agency coordination and collaboration can be achieved via a robust and effective Cabinet, as the Act requires it to review and align policies, payment structures, services definitions, and data collection to advance the goals of the Act. It is the Commission's understanding that the Cabinet has not met quarterly on a consistent basis as required by the Act.
 - The EFOC recognizes there are often intra-agency staff work groups that pursue improvements on Employment First policy, yet we believe the Cabinet must meet more frequently and, if necessary, establish interagency working groups consisting of staff delegated by the Cabinet members to accomplish the Cabinet's work between meetings.
 - This was included as an "objective" in the Commission's 2020 report, yet the Commission is not aware of any progress, which is why it is being kept in the report but moved to a recommendation.
- H. Recommendation. Establish a Customer Feedback System (Across Systems).** It is imperative for Pennsylvania to establish a cross-department, customer response system and/or surveys for all publicly-funded services regarding Employment First. Pennsylvanians with disabilities are in the best position to know and understand which systems or services are working (and where) and what challenges continue to exist.
- Unless another construct is pursued, this objective can and should be pursued by involving the Employment First Oversight Commission in the implementation of

[Executive Order – 2019-04 – Establishing a “Citizen-First” Government and Promoting Customer Service Transformation.](#)

- Public communications must be pursued across systems regarding employment. A regular feedback loop using social media or other forms of communication is warranted.
 - This was included as an “objective” in the Commission’s 2020 report, yet no progress has been made, which is why it is being kept in the report but moved to a recommendation.
- I. Recommendation. Survey (individual and families) Plans for the Future.** Establish an annual statewide survey for individuals using system supports to determine expectations and outcomes for employment (starting in Early Intervention). Understand the misperceptions about working and benefits and real barriers that exist for people using services and their families to better plan services and develop training.
- While some consumer surveys and individual assessments are produced by OVR and ODP that ask about employment delivery and success, all publicly-funded systems should align statewide surveys or partner for one effort, including but not limited to Early Intervention, Education, Office of Long-Term Living, Office of Mental Health and Substance Abuse Services and Transportation.
 - This was included as an “objective” in the Commission’s 2020 report, yet no progress has been made.
- J. Recommendation. Data Reporting - Publicly Available Dashboard.** Pennsylvania does not yet have a comprehensive employment data system across all departments. De-identified case number records should be established to understand how, when, and how often people with disabilities are using employment systems and what is working, and de-identified aggregate data should be made available to the public in an accessible, user-friendly format.
- During 2021, the Governor’s Office attended meetings of the Commission to discuss its undertaking of a publicly available data dashboard that would include several key data points for Employment First efforts. The Commission is pleased with the direction being taken and supports any effort to make relevant disability employment data available to the public in a user-friendly “dashboard” format. The Commission’s recommendation is that this work should be completed as soon as possible and then for its availability to be well publicized to disability stakeholders and the media.
- K. Recommendation. On-Time Delivery Measurement.** People who have signed up or requested employment services in any state agency or program should be served within 3 months. Multiple measures, including outcomes by department, should be created by individuals’ case numbers (across all departments) to track time, use of services, and employment outcomes/retention.
- While OVR already has timelines required by federal law, they may not be aggressive enough from a customer-centric perspective. Moreover, aside from

OVR, it is not clear whether any other state agency-funded system has service timelines that must be met. Customer-centric timelines ought to be developed by all employment-related systems and the data on whether those timelines are met should be shared and then used to make cross-system policy and program improvements.

- This was included as an “objective” in the Commission’s 2020 report, yet no progress has been made, which is why it was kept in this report but changed to a recommendation.

- L. Recommendation. Education and Outreach for New MAWD Statute.** *Medical Assistance for Workers with Disabilities: Workers with Job Success* (Act 69 of 2021) creates a new category for eligibility under MAWD, allowing workers with disabilities to earn more and save assets. Now that the Act has been passed, public awareness and outreach should occur. Education on these changes need to be provided to service providers, county assistance offices and program administration with additional education provided to people with disabilities.
- M. Recommendation.** Research indicates that black and brown young adults are typically denied access to Pre-Employment Transition Services, including opportunities for self-determination.¹⁵ Going forward EFOC is requesting an examination of statewide and regional transition data broken down by race and ethnicity and disability. By addressing the barriers experienced by students at the intersection of disability and race, solutions can break down barriers of all youth seeking employment.
- N. Recommendation.** If Local Transition Coordinating and Employment Councils (LTCCs) are going to be utilized as a Local Employment Coalition, then the LTCCs need to have all adult disability service systems, providers and county representatives attending regularly.
- O. Recommendation. ODP should reexamine and reform, if necessary, the service definition for “Advanced Supported Employment”, including eligibility, rate amounts, and the method of service reimbursement.** According to data provided by ODP, only 20 unique persons - statewide - received Advanced Supported Employment last year. Out of 67 counties, Advanced Supported Employment was provided in only 7 counties or jointers. Advanced Supported Employment was a new service unveiled in the 2017 waiver renewal, and so it may be understandable to some extent why it has been slow to catch on. But the numbers are extremely low, which the Commission believes could be a result of a) the limitations contained in the service definition in terms of the pre-conditions required before a person is eligible for the service b) the low rate paid to

¹⁵ [Parent Engagement in the Transition From School to Adult Life Through Culturally Sustaining Practices: A Scoping Review - PubMed \(nih.gov\)](#)

deliver the service, and c) the fact that the rate is paid on an outcome basis, which may serve as a disincentive for providers to provide the service.

- P. Recommendation. ODP should report separately on use of base dollars to support non-CIE outcomes.** It is still unclear how counties are held accountable for Employment First through their federal and state funded activities on employment. Of great concern is that dollars allocated to some counties may be used in more restrictive and segregated employment settings. The Commission is asking ODP to report on funding used by state allocated base dollars to provide sheltered workshop funding in their annual employment report.
- Q. Recommendation. OLTL should provide additional information and report data separately on its participants who are considered employed but not working in a competitive-integrated job.** In data provided for this report, OLTL reported that a total of 392 participants were employed, yet only 266 had competitive-integrated employment. OLTL should provide additional information about the kinds of jobs and compensation for the 126 participants who make up the difference, whether those 126 participants are receiving CHC-funded employment services to hold those non-CIE jobs, and what steps the MCOs are taking to make “competitive-integrated employment the first consideration and preferred outcome” for those 126 CHC participants as required in Act 36 of 2018.
- R. Recommendation.** All government entities, with special emphasis on the Office of Vocational Rehabilitation, should transition to consistently using the acronym Pre-ETS instead of PETS for Pre-employment Transition Services. This acronym is more dignifying and easier to understand by the general population and recipients of the services.
- S. Recommendation. Data should be reported broken down by race/ethnicity and other diversity groups.** Data to implement the Act should be collected and reported showing people with disabilities by race/ethnicity, gender, gender identity, sexual orientation, and English as a second language to ensure the needs of all Pennsylvanians with disabilities are being met. All data provided by the Commonwealth should be broken down by these categories to reveal disparate treatment within these intersectionalities.
- T. Recommendation. That state and county administrators should continue to increase and align, wherever possible, financial incentives for agencies/providers and Support Coordinators to increase CIE outcomes.** County-funded services under the jurisdiction of the state should have Memorandums of Understanding, agreements, or contracts in place requiring CIE policy be encouraged and followed.
- This is a required activity within Act 36 of 2018¹⁶, yet it is not clear any progress

¹⁶ Act 36, Section 4 (d) Policies. (1) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First. Financial incentives, when

is being made on this. The Office of Development Programs should review its Administrative Entity agreements to determine if this is in the agreement and/or what if anything ODP is doing to enforce this provision. However, this is larger than ODP and not limited to instances involving counties or Supports Coordinators; rather, any situation that involves public funds ought to be one where financial incentives are increased and then aligned with other systems, e.g., PDE, OLTL, OMHSAS, and OVR

- U. Recommendation. The Commission supports the Department of Human Services efforts to implement value-based purchasing arrangements in the Behavioral HealthChoices program that include addressing employment as a social determinant of health.** Data should be collected and submitted by Behavioral Health Managed Care Organizations (BHMCOs) to DHS for publication similar to what is collected by ODP and OLTL and on an annual basis.

The only employment services offered currently are at the county level on a voluntary basis. Some innovative employment supports are being offered, yet the types of services and their availability are not consistent statewide. Having a job can positively impact a person with behavioral health issues and making employment supports available to participants is likely to provide the Commonwealth a net positive return on investment. Moreover, failing to do so is inconsistent with the Act's Employment First policy, which requires that publicly funded programs make employment the first consideration and preferred outcome.

The State Office of Mental Health and Substance Abuse Services (OMHSAS) informed the Employment First Oversight Commission that, based on the Medicaid waiver approved for the Behavioral HealthChoices program, employment services are not permitted by the federal Centers for Medicare and Medicaid Services to be an in-plan service. Therefore, employment services are pursued on a county-by-county basis by county mental health/behavioral health programs. However, this is under the base fee-for-service HealthChoices program in place.

To address this issue, according to DHS/ OMHSAS employment services will be built into the "Community-Based Care Management" program, allowing BHMCOs to choose employment as a social determinant of health. DHS can further support this effort by building it into the oversight of the Regional Accountable Health Councils (RAHCs) that are being developed statewide as part of its Healthcare Reform Plan.

DHS should also consider alternatives, such as building employment into value-based payment programs. Specifically, BHMCOs are being required- at an increasing amount/percentage of provider payments each year- to implement creative alternatives to traditional fee-for-service. Under this scenario, BHMCOs can incorporate employment as a process and an outcome to reward successful, quality providers and

allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.

pay for these services. This is an area for further discussion and exploration given the limitations of the existing Medicaid waiver.

- V. Recommendation. That Workforce Development allocates funding for innovation statewide/regional for Employment First efforts –support promising practices that increase employment for people with disabilities within businesses.** People with disabilities represent the largest untapped labor pool. Workforce Development dollars in each region should be prioritized to provide businesses and organization support mechanisms to develop and grow successful employment integration programs.
- During the spring of 2020, L&I issued a request for proposal (RFP) that would support promising practices by businesses when it comes to increasing the hiring of talent with disabilities. This RFP was very encouraging. Unfortunately, the grants were never awarded, apparently due to the COVID-19 public health emergency. It is hoped that L&I will resurrect this grant opportunity.
- W. Recommendation. The Governor’s Policy office, in collaboration with OA and OVR, should convene a work group that includes external disability experts in the employment of people with disabilities and accessibility to review with a 6-month deadline.** OA’s existing job classifications and job descriptions, recruitment communications/outreach, application process, testing/qualification determination process, applicant tracking, interview process, hiring/candidate selection, short-term onboarding, continuous support, reasonable accommodations, welcoming and functional workplace, and retention efforts should be reviewed. After a comprehensive review, the panel of experts should develop recommendations on how to improve these processes and procedures to honor goals and objectives outlined in the Act. (Steve)
- The Governor’s Office of Administration had indicated to the Commission it had initiated a process to undertake many of these activities. External disability stakeholders and experts should be brought in to advise as this process moves forward and not afterward. An update on progress should be provided to the Commission.
- X. Recommendation. The PA Department of Labor and Industry track and publish the labor participation rate for Pennsylvanians with disabilities along with employment data for other Pennsylvania cohorts.**
- According to L&I, this can be challenging to develop at the state level because it is based on small sample sizes; the state does not publish because the data can be volatile. Nevertheless, the Commission recommends that the state publish the data, either by using national data or showing state data with the qualifiers included in a footnote. Having such data published alongside other mainstream data keeps the issue front and center – if it is never published, then it will be forgotten and not prioritized by policy makers.
- Y. Recommendation. The Governor’s Disability Cabinet should make transportation a high priority. Transportation is a significant barrier for people with disabilities who would like a job and need to get to and from work - on time, every time.**

- Surveys and data collection should be undertaken that inform policy and program decisions pertaining to publicly-funded programs within PennDOT and the Department of Human Services (DHS).
 - DHS should amend its Home and Community-Based Waiver programs to make it easier for waiver participants to access and pay for transportation-on-demand services (e.g., Uber, Lyft, etc.) on their mobile phones using waiver funds.
- Z. Recommendation. Cyber School Data.** Data on support and employment on students receiving transition services in a cyber compared to students in home & charter schools should be reported separately and in comparison that students are afforded the same opportunity in transition as those in brick-and-mortar school settings.
- In January of 2021, the York Dispatch published an article indicating that Pennsylvania Cyber Charter saw an increase by about 2,000 students during the pandemic.¹⁷
- AA. Recommendation.** Data numbers are often suppressed and symbolized as none when there are less than 10 people using that service. For instance, DOE does not publish 3 people with Intellectual Disability in a data set because it believes doing so could reveal the identity of a student in a particular program or school. This leads to confusion about the actual numbers represented. The Governor’s Office should develop a consistent definition and apply it consistently across all state agencies and age groups.
- BB. Recommendation. At least one year before graduation, 50% of all students with an IEP will lead their own IEP meeting; and, 100% of students will self-advocate in their own IEP meeting, and if they choose, disclose their disability, and identify (if necessary) what types of accommodations they need to be successful in a job.**
- This has been included as a measurable goal during the past 2 reports, but PDE has indicated this information is not collected. The Commission believes PDE should collect and report on these data because running one’s own IEP meeting would result in the development of strong self advocacy skills and leadership skills, both of which will be needed by the student during their adult life to secure and keep competitive-integrated employment.
- CC. Recommendation. Benefits counseling should be made available to students with disabilities before they leave high school.**
- Work incentive benefits counseling has been shown to be a promising practice in vocational rehabilitation and has had a demonstrated impact on positive employment outcomes for adults with disabilities receiving SSA benefits¹⁸ The

¹⁷ <https://www.yorkdispatch.com/story/news/2021/01/05/cyber-charter-school-enrollment-up-25-k-students-pa/4141493001/>

¹⁸ Schlegelmilch, Amanda et al. ‘The Impact of Work Incentives Benefits Counseling on Employment Outcomes of Transition-age Youth Receiving Supplemental Security Income (SSI) Benefits’. 1 Jan. 2019 : 127 – 136.- The study shows significant increases in employment outcomes for transition-aged youth with disabilities who received work incentive benefits counseling services. Not only were youth who received benefits counseling more than twice as

Commission is convinced that such positive outcomes in employment are likely to happen when students in transition are provided information related to working and receiving benefits early on in the transition process.

DD. Recommendation. The Governor’s Office of Administration should create or allow state agencies to develop a “customized employment” job classification. Utilizing the funding resources and job development expertise of the Office of Vocational Rehabilitation, state agencies like DHS and others could work with OVR to create at least 10 customized job outcomes during the first year.

- This has been included as a measurable goal during the past two EFOC reports. Since OA has not yet implemented this recommendation, there is no data to measure. The Commission understands some steps have been undertaken between OA and OVR to establish the first customized employment position, and completing that effort and then expanding the model to other state agencies would be a demonstration that Pennsylvania is an innovative, national leader on Employment First and model employer.

EE. 100% of graduating students with an Individual Education Plan (IEP) either have CIE and/or post-secondary placement or have a plan in place with OVR and ODP or OLTL-funded program, which guarantees access to appropriate and continuous services for CIE and/or post-secondary placement. For the past two years, this has been included in the Commission’s annual reports as a measurable goal. However, the PA Department of Education has said it is unable to provide the detail needed about students’ IEP transition plans to be able to measure progress because schools are not required by state or federal law to report plans by goal type.

- The Commission requests that some measure, even a random sampling of students and their families and/or IEPs, be monitored (and the results made available to the Commission) to ensure students are connecting to an actual job, an educational placement, or an employment service as they transition from secondary education to adult life.

VI. Looking forward to 2022

A. **Assessment of Each Requirement Under Act 36 of 2018.** The Commission has started conversations with the Governor’s Office to request that it coordinate with the several state agencies the completion of an assessment of each of the requirements in Act 36 to indicate whether and how each requirement is being implemented. The Commission will request that the assessment be completed by its March meeting (see Appendix B). The Commission then plans to spend time reviewing the results of the assessment so it can

likely to secure employment than those who had not, they were also more than four times as likely to earn over substantial gainful activity (SGA). This outcome is significant as it underscores the importance of work incentives focused benefits counseling as an employment intervention for youth.

provide recommendations for effective strategies and policies needed to support the implementation of the Act.

- B. Administration’s Position On Goals, Objectives, And Recommendations.** The Commission has initiated discussions with the Governor’s Office to request that, in early 2022, the administration share its views and positions on the Commission’s several goals, objectives and recommendations as published in its annual report. Some feedback is gleaned from discussions held during the regular quarterly meetings of the Commission, yet it will be extremely helpful if the Commission knows with some level of clarity and has in writing the administration’s detailed positions. If certain items in the Commission’s report are not supported by the administration, then the Commission could consider new or amended goals, objectives and recommendations during its next annual report.
- C. Act 36 of 2018 Applicability To All State Agencies.** A plain reading of the Act indicates that policy established via the Act is applicable to all state agencies. Section 4.a of the Act reads as follows: *“Employment First. Policy.--It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry. Employment services and opportunities must be offered to all individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.”* Therefore, while the close involvement of several of the state agencies that have a direct programmatic role in disability employment is appreciated (e.g., OVR, ODP, OLTL, OMHSAS, BSE, and OA), the Commission feels strongly that the Act is not limited to just those agencies. Rather, the Act is applicable to all state agencies as it establishes policy for all individuals with a disability eligible to work under state and federal law. During 2022, the Commission will request and expect greater involvement by and attention from state agencies that heretofore have not been actively involved but do have the ability to influence whether Pennsylvanians with disabilities are offered employment services and opportunities.
- D. Section 520 of the Commonwealth Procurement Code.** Section 520 provides a “no competitive bid” construct that enables businesses, which affirmatively employ workers with disabilities, to secure state contracts for products and services at a fair market price as determined by the PA Department of General Services (DGS).¹⁹ The law requires that 75% of the direct labor used to make the products or deliver the services must be people with disabilities. The non-profit organization DGS deals exclusively with to implement Section 520 is UniqueSource Products and Services.²⁰ For decades, many have hailed this arrangement because it has facilitated state contracts to organizations

¹⁹ <https://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/62/00.005.020.000..HTM>

²⁰ <http://www.dgsweb.state.pa.us/comod/ResourceToolbox/Courses/webBased/UniqueSource.pdf>

that have created and sustained jobs for people with disabilities, including some jobs recently determined by the Commonwealth to be competitive-integrated employment. Recently, advocates of Employment First have suggested that Section 520, as currently written, may promote and sustain segregated work environments; and, while most such businesses pay competitive wages, a few in fact utilize federal 14c certificates to pay subminimum wage. During 2022, the Commission plans to examine the issues surrounding Section 520 of the Procurement Code, including its history as well as present circumstances, and will consider whether or to what extent the law in its current form may be perpetuating jobs for some people with disabilities that are inconsistent with the Employment First policy established by the Act. Based upon what is learned, the Commission may include in its next annual report recommendations to the Governor and General Assembly which it believes are needed to support the implementation of the Act.

- E. Community Autism Peer Specialist Program (CAPS).** The CAPS program is an innovative initiative developed by Community Behavioral Health (CBH), the behavioral health managed care organization overseeing Behavioral HealthChoices in Philadelphia. It is based on the Certified Peer Specialist Model and specifically targets employment services as a positive outcome for young adults (ages 14-17) and adults. CBH is collecting data on this program and the Commission will invite them to a Commission meeting to present the program and data/outcomes. Based on this review, the Commission may consider a recommendation that CAPS be expanded to other regions of the Commonwealth, with funding coming from Behavioral HealthChoices, ODP, and/or OVR.

vii. Appendices

A. Act 36 of 2018

EMPLOYMENT FIRST ACT - ENACTMENT

Act of Jun. 19, 2018, P.L. 229, No. 36

CL. 35

An Act

Providing for competitive integrated employment in State and county agencies and any entity providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability; establishing Employment First, the Governor's Cabinet for People with Disabilities and the Employment First Oversight Commission and providing for their powers and duties; and conferring powers and imposing duties on the Governor and the Office of the Governor.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Employment First Act.

Section 2. Findings and declarations.

The General Assembly finds and declares as follows:

(1) It is the purpose of this act to ensure that individuals with a disability be given the opportunity to achieve economic independence through jobs that pay competitive wages in community integrated settings.

(2) The current work force participation rate for individuals with a disability is 20%.

(3) Pennsylvanians with a disability are valued members of society, and all members of society deserve to have the opportunity to work.

(4) Significant changes have occurred and are continuing to evolve with advances in effective support strategies and technology.

(5) Each year throughout this Commonwealth, thousands of high school students with a disability who use plans developed in accordance with section 504 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 794) or qualify under the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) graduate from special education programs and are ready and able to work at competitive wages in private sector and public sector jobs.

(6) The Commonwealth can realize a return on its significant investment in young adults with a disability who have benefited from a free and appropriate public education and other State services by adopting policies that further the goal of competitive integrated employment for individuals with a disability.

(7) Hundreds of thousands of job openings are listed every day, reflecting the challenges faced by employers in finding and keeping a dedicated work force, which could be resolved, in part, through the hiring of individuals with a disability.

(8) Recognition and furtherance of the benefits of meaningful work applies to all working individuals, including the opportunity for competitive integrated employment for individuals with a disability.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Cabinet." The Governor's Cabinet for People with Disabilities established under section 5.

"Commission." The Employment First Oversight Commission established under section 6.

"Competitive integrated employment." As defined in section 7 of the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 705(5)).

"Disability." As defined in governing statutes and regulations of each State agency.

"Employment First." The policy of State agencies which provides that competitive integrated employment is the first consideration and preferred outcome of publicly funded education, training, employment and related services, and long-term services and support for individuals with a disability.

"State agency." Any office, department, authority, board, multistate agency or commission of the executive branch, an independent agency or a State-affiliated entity. The term includes:

- (1) The Governor's Office.
- (2) The Office of Attorney General.
- (3) The Department of the Auditor General.
- (4) The Treasury Department.
- (5) An organization established by the Constitution of Pennsylvania, a statute or an executive order which performs or is intended to perform an essential government function.

Section 4. Employment First.

(a) Policy.--It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry. Employment services and opportunities must be offered to all individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.

(b) Implementation.--State and county agencies and entities providing publicly funded education, training, employment and related services, and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability who are eligible to work under Federal or State law shall comply with the requirements of Employment First and ensure that the requirements of Employment First are effectively implemented in agency programs and services to the extent practicable.

(c) Collaboration.--State and county agencies and entities providing publicly funded education, training, employment and

related services and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability shall coordinate efforts and collaborate to ensure that State programs, policies, procedures and funding support competitive integrated employment for individuals with a disability who are eligible to work under Federal or State law.

(d) Policies.--

(1) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First. Financial incentives, when allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.

(2) State agencies shall provide the designation of employment champions, consistent with the designation utilized by the Department of Human Services, to providers of service coordination, case management and authorization services funded through the State Medicaid program, including home and community-based waiver programs, who demonstrate commitment to Employment First and successfully support the placement and continued employment of individuals with a disability in competitive integrated employment. Employment champions shall be provided increased technical assistance to further support employment services. A complete list of employment champions shall be made available on the State agencies' websites.

(e) Staff.--State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability shall implement the requirements of Employment First with trained and certified staff that are in compliance with governing statutes and regulations of each State agency.

(f) Assessment.--State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability shall develop clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment. Each agency shall complete an assessment of its progress toward

meeting these goals annually and ensure that the information is publicly available and posted on its publicly accessible Internet website.

(g) Progress.--State agencies are authorized to share general, nonindividualized data and information across systems in an effort to track implementation of Employment First. State agencies are encouraged to adopt measurable goals and objectives to promote the assessment of progress under this subsection.

(h) State agency compliance.--The following shall apply:

(1) State agencies shall make an effort to employ individuals with a disability in no less than 7% of the overall State work force.

(2) State agencies shall review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.

(3) No State agency shall be required to give preference in hiring to individuals with a disability.

(4) The Office of Administration shall develop a framework for individuals to self-report a disability.

(5) The State Civil Service Commission shall review and consider changes in its policies and procedures in order to support progress towards the initial goal established under this subsection.

(i) Initial plan.--No later than one year after the effective date of this subsection, the Office of the Governor shall develop an initial three-year plan based upon information provided by the State agencies for implementing Employment First for submission to the General Assembly. The plan shall identify the specific policies and implementation dates for State agency compliance with this act.

(j) Annual report.--The assessment information compiled by each State and county agency and any entity providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability under subsections (f) and (g) and any other information deemed necessary shall be sent to the Governor's Office of Policy and Planning no later than October 1 of each year for consideration and inclusion in an annual report by the Office of the Governor to the General Assembly that documents continued and improved State agency compliance with this act. The report shall be submitted to the General Assembly no later than January 30 of each year.

Section 5. The Governor's Cabinet for People with Disabilities.

(a) Establishment.--The Governor shall establish the Governor's Cabinet for People with Disabilities. The Governor shall appoint the members of the cabinet.

(b) Composition.--The cabinet shall consist of the following members, who may not delegate their duties to other members, except for good cause:

- (1) Secretary of Human Services or a designee who shall be an employee of the Department of Human Services.
- (2) Secretary of Labor and Industry or a designee who shall be an employee of the Department of Labor and Industry.
- (3) Secretary of Health or a designee who shall be an employee of the Department of Health.
- (4) Secretary of Education or a designee who shall be an employee of the Department of Education.
- (5) Secretary of Transportation or a designee who shall be an employee of the Department of Transportation.
- (6) Secretary of the Budget or a designee who shall be an employee of the Office of the Budget.
- (7) Secretary of Aging or a designee who shall be an employee of the Department of Aging.
- (8) Secretary of Military and Veterans Affairs or a designee who shall be an employee of the Department of Military and Veterans Affairs.
- (9) Secretary of State or a designee who shall be an employee of the Department of State.
- (10) Secretary of Policy and Planning or a designee who shall be an employee of the Office of Policy and Planning.
- (11) Secretary of Community and Economic Development or a designee who shall be an employee of the Department of Community and Economic Development.
- (12) Executive Director of the Pennsylvania Human Relations Commission or a designee who shall be an employee of the Pennsylvania Human Relations Commission.
- (13) Executive Director of the State Civil Service Commission or a designee who shall be an employee of the State Civil Service Commission.
- (14) Executive Director of the Pennsylvania Housing Finance Agency or a designee who shall be an employee of the Pennsylvania Housing Finance Agency.
- (15) Executive Director of the Pennsylvania Developmental Disabilities Council or a designee who shall be an employee of the Pennsylvania Developmental Disabilities Council.
- (16) Executive Director of the Commonwealth of Pennsylvania Council on the Arts or a designee who shall be an employee of the Commonwealth of Pennsylvania Council on the Arts.

(c) Powers and duties.--The cabinet shall have the following powers and duties:

- (1) To conduct:
 - (i) a detailed review of existing regulations, policies and procedures relating to the goal of competitive

integrated employment for individuals with a disability;
and

(ii) a review and alignment of service definitions, policies and payment structures within and across State agencies.

(2) To develop:

(i) recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for changes in regulations, policies and procedures necessary to ensure implementation of Employment First;

(ii) recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for the consistent collection of data and the enforceable sharing of data;
and

(iii) recommendations to the Governor for legislative changes necessary to support and implement this act.

(d) Collaboration.--The cabinet shall encourage the development and adoption of agreements among local entities of the State agencies to promote collaboration among agencies at regional and local levels across this Commonwealth.

(e) Meetings.--The cabinet shall meet quarterly and shall be responsible for coordinating the development of policies designed to implement this act by each State agency providing services to an individual with a disability.

Section 6. Employment First Oversight Commission.

(a) Establishment and composition.--An independent Employment First Oversight Commission is established. The commission shall consist of the following members, at least 51% of whom must have disabilities, who shall serve for a three-year term:

(1) Four members, not under the employ of the Commonwealth, who are individuals with a disability or individuals who are knowledgeable about the employment of individuals with a disability. The following shall apply:

(i) One shall be appointed by the President pro tempore of the Senate.

(ii) One shall be appointed by the Minority Leader of the Senate.

(iii) One shall be appointed by the Speaker of the House of Representatives.

(iv) One shall be appointed by the Minority Leader of the House of Representatives.

(2) Two individuals with a disability, appointed by the Governor.

- (3) Two parents or family members of individuals with a disability, appointed by the Governor.
 - (4) Two individuals who have successful experience in providing services and support to high school students and recent graduates with a disability, leading to competitive employment in an integrated setting, appointed by the Governor.
 - (5) A representative of Disabilities Rights Pennsylvania, appointed by the Governor.
 - (6) A representative of the Pennsylvania Rehabilitation Council, appointed by the Governor.
 - (7) A representative of the Pennsylvania Statewide Independent Living Council, appointed by the Governor.
 - (8) A representative of the Pennsylvania Client Assistance Program, appointed by the Governor.
 - (9) A representative of a State association of organizations that provides competitive integrated employment services, among other services, in the community for individuals with disabilities, appointed by the Governor.
 - (10) A representative of an organization that partners with private businesses or State agencies, or both, to deliver services that create competitive employment opportunities in the community for individuals with disabilities, appointed by the Governor.
- (b) Meetings.--The Governor shall designate one member to convene and organize the first meeting of the commission at which the commission shall elect a chairperson and other officers as it deems necessary from among its members. The commission shall meet at least four times each year or at the call of the chairperson. A quorum shall consist of a majority of the members of the commission. All actions of the commission shall be taken only after approval by a majority vote of the members present after a quorum is established during a lawful meeting of the commission.
- (c) Reimbursement.--Each member of the commission shall be reimbursed normal and customary travel expenses in accordance with Commonwealth travel policies for attendance at meetings of the commission.
- (d) Progress.--The commission shall establish measurable goals and objectives governing the implementation of this act. The commission shall track the measurable progress of public agencies in implementing this act. All State agencies shall fully cooperate with and provide data and information to assist the commission in carrying out its duties.
- (e) Annual report.--The commission shall issue an annual report on October 1 of each year, detailing the progress made on each of the measurable goals and objectives during the preceding

fiscal year. The annual report shall also include recommendations to the Governor and the General Assembly for effective strategies and policies needed to support the implementation of this act.

(f) Support.--The Office of the Governor shall ensure that reasonable staff and support are made available to the commission to carry out its duties under this section. The Office of the Governor shall also ensure that administrative costs, including money for travel expenses authorized under subsection (c) and money for the distribution of the annual report and other related administrative costs, are made available to enable the commission to carry out its duties under this section. The commission may seek the attendance and participation of members of the cabinet in meetings of the commission in order to assist the commission in carrying out its responsibilities under this section.

Section 7. Training and outreach.

All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to the following individuals about Employment First and available opportunities for participation in competitive integrated employment:

- (1) Individuals with a disability and their families.
- (2) Providers of employment services for individuals with a disability.
- (3) Education, vocational rehabilitation and human service officials responsible for services to individuals with a disability.

Section 8. Applicability.

Nothing under this act shall be interpreted to supersede or preempt Federal or State law. Nothing in this act shall be construed to change, supersede, preempt or otherwise redefine the term "age of majority" as it applies to individuals who qualify under the provisions of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) pursuant to 22 Pa. Code § 11.12 (relating to school age). This act is not intended to create and does not create a prohibition of existing employment options and opportunities or of the informed choices of individuals with a disability made through a person-centered planning process.

Section 9. Effective date.

This act shall take effect in 60 days.

B. Act 36 Compliance Assessment Format

Proposed:

Act 36 Requirement Imposed on State Government Agencies	Administration Compliance (is this provision being implemented & if so how?)	EFOC's Assessment of Compliance and Recommendations
<p>Section 4(a) It shall be the policy of the Commonwealth that competitive integrated employment shall be the preferred outcome for all individuals with a disability eligible to work under Federal or State law, regardless of severity of disability and assistance required, and work-based learning experiences for all youth with a disability in collaboration with the Department of Labor and Industry.</p>		
<p>Section 4(a) (continued) Employment services and opportunities must be offered to all individuals with a disability receiving publicly funded services, regardless of whether they live in their own home or in a residential setting.</p>		
<p>Section 4(b). State and county agencies and entities providing publicly funded education, training, employment and related services, and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability who are eligible to work under Federal or State law shall comply with the requirements of Employment First and ensure that the requirements of Employment First are effectively implemented in agency programs and services to the extent practicable.</p>		

<p>Section 4(c). State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability that provide services and support to individuals with a disability shall coordinate efforts and collaborate to ensure that State programs, policies, procedures and funding support competitive integrated employment for individuals with a disability who are eligible to work under Federal or State law.</p>		
<p>Section 4(d)1. State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall review their respective policies relating to payment of service providers, including supports coordinators, to align payment policies with the requirements of Employment First.</p>		
<p>Section 4.(d)1.(continued) Financial incentives, when allowable under Federal funding rules for employment services, shall be granted to providers who support the placement and continued employment of individuals with a disability in competitive integrated employment.</p>		

<p>Section 4(d)2. State agencies shall provide the designation of employment champions, consistent with the designation utilized by the Department of Human Services, to providers of service coordination, case management and authorization services funded through the State Medicaid program, including home and community-based waiver programs, who demonstrate commitment to Employment First and successfully support the placement and continued employment of individuals with a disability in competitive integrated employment.</p>		
<p>Section 4(d)2 (continued) Employment champions shall be provided with increased technical assistance to further support employment services.</p>		
<p>Section 4(d)2 (continued) A complete list of employment champions shall be made available on the State agencies' websites</p>		
<p>Section 4(e) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and supports for working-age Pennsylvanians with a disability shall implement the requirements of Employment First with trained and certified staff that are in compliance with governing statutes and regulations of each State agency.</p>		

<p>Section 4(f) State and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability shall develop clear outcome expectations for employment that include annual baseline employment data and specific percentage goals for individuals with a disability gaining competitive integrated employment.</p>		
<p>Section 4(f) (continued) Each agency (state and county agencies and entities providing publicly funded education, training, employment and related services and long-term services and support for individuals with a disability) shall complete an assessment of its progress toward meeting these goals annually and ensure that the information is publicly available and posted on its publicly accessible Internet website.</p>		
<p>Section 4(g) State agencies are authorized to share general, non-individualized data and information across systems in an effort to track implementation of Employment First.</p>		
<p>Section 4(g) (continued) State agencies are encouraged to adopt measurable goals and objectives to promote the assessment of progress under this subsection.</p>		
<p>Section 4(h)(1) State agencies shall make an effort to employ individuals with a disability in no less than 7% of the overall State workforce.</p>		

<p>Section 4(h)(2) Review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.</p>		
<p>Section 4(h)(4) The Office of Administration shall develop a framework for individuals to self-report disability.</p>		
<p>Section 4(h)(5) The State Civil Service Commission shall review and consider changes in policies and procedures in order to support progress towards the initial goal established under this subsection.</p>		
<p>Section 4(i) No later than one year after the effective date of this subsection, the Office of the Governor shall develop an initial three-year plan based upon information provided by the State agencies for implementing Employment First for submission to the General Assembly.</p>		
<p>Section 4(i)(continued). The plan shall identify the specific policies and implementation dates for State agency compliance with this act.</p>		

<p>Section 4(j) The assessment information compiled by each state and county agency and any entity providing publicly funded education, training, employment and related services and long-term services and support for working-age Pennsylvanians with a disability under subsections (f) and (g) and any other information deemed necessary shall be sent to the Governor’s Office of Policy and Planning no later than October 1 of each year for consideration and inclusion in an annual report by the Office of the Governor to the General Assembly that documents continued and improved state agency compliance with this act.</p>		
<p>Section 4(j) (continued) The report shall be submitted to the General Assembly no later than January 30 of each year.</p>		
<p>Section 5 (a) &(b) The Governor shall establish the Governor’s Cabinet for People with Disabilities. The Governor shall appoint the members of the cabinet. The cabinet shall consist of [16 specified positions]; who may not delegate their duties to other members, except for good cause.</p>		
<p>Section 5(c)(1)(i) The cabinet shall have the following powers and duties: To conduct a detailed review of existing regulations, policies and procedures relating to the goal of competitive integrated employment for individuals with a disability</p>		

<p>Section 5(c)(1)(ii) The cabinet shall have the following powers and duties: To conduct review and alignment of service definitions, policies and payment structures within and across State agencies.</p>		
<p>Section 5(c)(2)(i) The cabinet shall have the following powers and duties: To develop recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for changes in regulations, policies and procedures necessary to ensure implementation of Employment First</p>		
<p>Section 5(c)(2)(ii) The cabinet shall have the following powers and duties: To develop recommendations to the Governor, the Secretary of Education, the Secretary of Human Services, the Secretary of Labor and Industry, the Secretary of Administration and the Secretary of General Services for the consistent collection of data and the enforceable sharing of data</p>		
<p>Section 5(c)(2)(iii) The cabinet shall have the following powers and duties: To develop recommendations to the Governor for legislative changes necessary to support and implement this act.</p>		

<p>Section 5(d) The cabinet shall encourage the development and adoption of agreements among local entities of the State agencies to promote collaboration among agencies at regional and local levels across this Commonwealth.</p>		
<p>Section 5(e) The cabinet shall meet quarterly.</p>		
<p>Section 5(e) (continued) The cabinet shall be responsible for coordinating the development of policies designed to implement this act by each State agency providing services to an individual with a disability.</p>		
<p>Section 6(f) The Office of the Governor shall ensure that reasonable staff and support are made available to the commission to carry out its duties; shall ensure that administrative costs, including money for travel expenses and money for the distribution of the annual report and other related administrative costs are made available to enable the commission to carry out its duties.</p>		
<p>Section 7(a). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to individuals with a disability and their families about Employment First and available opportunities for participation in competitive integrated employment</p>		

<p>Section 7(b). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to providers of employment services for individuals with a disability about Employment First and available opportunities for participation in competitive integrated employment</p>		
<p>Section 7(c). All State agencies providing services to individuals with a disability who are eligible to work under Federal and State law shall establish systems of outreach and training that provide information to education, VR, and human service officials responsible for services to individuals with a disability about Employment First and available opportunities for participation in competitive integrated employment</p>		

C. List of Commissioners and Biographies

Stephen Suroviec, Commission Chair, is President and Chief Executive Officer of Achieva, one of the largest disability service and advocacy organizations in southwestern Pennsylvania. Before joining Achieva in January 2018, Steve held several disability-related positions in both the public and non-profit sectors, including Chief Operating Officer and Intellectual/Developmental Disabilities Division Director for the Rehabilitation and Community Providers Association, Special Advisor to the PA Secretary of Human Services (for “Employment First” policy), Deputy Secretary for Developmental Programs, Executive Director for the PA Office of Vocational Rehabilitation, Executive Director of The Arc of PA, and Director of the Erie County Department of Human Services. He was a Legislative Assistant for then-Congressman Tom Ridge from 1991 through 1994 and was a George W. Bush appointee on the President’s Committee for People with Intellectual Disabilities from 2006 to 2008. Steve is a veteran of the U.S. Air Force and holds a Master’s Degree in Public and International Affairs from the University of Pittsburgh.

Dale Verchick, Commission Vice Chair, has been an advocate at Disability Rights Pennsylvania since 2008, working for the rights of people with disabilities in various matters, particularly addressing barriers to employment for beneficiaries of Social Security. She also assists people with tools to achieve successful results by using self-advocacy methods. Prior to her life as an advocate, Dale was an elementary school teacher accredited through the American Montessori

Society. Dale and her family were refugees in the Persian Gulf War when they were forced to relocate to India. She is an immigrant, now US Citizen and she resides in Schuylkill County with her husband, their teenage son Andrew and 2-year-old daughter Lucy who has congenital femoral deficiency and fibular hemimelia. Dale presently serves on the Board of Pennsylvania Assistive Technology Foundation. She co-authored "NRI- the Improbable Adventures of a Non-Resident Indian" which tells the story of non-resident Indians caught between countries and cultures.

Dr. Josie Badger DHCE, CRC, Commission Secretary, received her Bachelor's degree from Geneva College in Disability Law and Advocacy, a Master's from the University of Pittsburgh in Rehabilitation Counseling, and a Doctorate from Duquesne University in Healthcare Ethics. In 2014 Josie founded J Badger Consulting Inc. where she provides youth development and disability consulting services for organizations, on transition and leadership development. She is the Director of the national RSA-Parent Training and Information Center technical assistance center (RAISE). She is the Campaign Manager of the #IWantToWork Campaign, to improve the employment of people with disabilities and is a Field Organizer for Denny Civic Solutions for the Family Care Act, a bill that supports paid family leave. She serves as a board member of the United Way of Southwestern Pennsylvania, The Woodlands Foundation, the Mary Grace Hospice Foundation, and FISA. In 2012, Dr. Badger was crowned Ms. Wheelchair America.

Cindy Duch is the Director of Parent Advising for the PEAL Center, where she has been for 14 years. Cindy lives in Hampton Township with her husband Jim and their two sons, Andrew and Alex. Her career in advocacy began when her older son was diagnosed on the Autism Spectrum. In addition to her work at the PEAL Center, Cindy is a member of the PA Rehabilitation Council and chairs the IDEA/Transition Committee. She is the current Co-Chairperson for the Local Task Force (LTF) on the Right to Education in Allegheny County, IU 3. She believes that the LTF is one of the greatest hidden resources for parents of children with disabilities in the public school system. Cindy also served the disability community as the Co-Chairperson of the Western PA Coalition of Education Advocates and as a Peer Monitor assisting the PA Department of Education in monitoring the Special Education Departments of School Districts in Pennsylvania. She has a B.S.B.A. in Economics from Robert Morris University.

Amiris Dipuglia obtained her degree as a medical doctor in 1991 from the Pontifical Catholic University Mother and Master in the Dominican Republic. When her eldest son Alexander was diagnosed with autism, she abandoned her medical career and pursued her certification as a behavior analyst. Amiris has dedicated the past twenty years to serving children with autism and other developmental delays by providing training and consultation to staff members in educational programs as well as homebound service providers on the implementation of evidence-based interventions derived from the field of applied behavior analysis. She also provides training to family members in order to promote and facilitate collaboration as well as optimize outcomes. She is currently one of the lead consultants for the Pennsylvania Training and Technical Assistant Network (PaTTAN) Autism Initiative and serves as a parent consultant.

Richard S. Edley, PhD, is the lead executive for the Rehabilitation and Community Providers Association (RCPA) in Pennsylvania, one of the largest state trade associations in the country representing providers of mental health, drug and alcohol, intellectual and developmental disabilities, children's, brain injury, medical rehabilitation, and physical disabilities and aging services. The association includes over 350 members. His professional career began in 1988 and prior to leading the association he was President and CEO of PerformCare/Community Behavioral HealthCare Network of Pennsylvania (CBHNP), a national, full-service, behavioral health managed care organization. Most recently, Dr. Edley was named to the Board of Directors of the National Council, a Washington DC based organization representing behavioral health providers and associations throughout the country. He also is a member of the PA Medical Assistance Advisory Committee (MAAC) and numerous other state task forces. Dr. Edley's baccalaureate degree is from Boston University and he holds master's and doctorate degrees in clinical psychology from Emory University. He was an intern and post-doctoral fellow at McLean Hospital, where he held a faculty appointment at Harvard Medical School, Department of Psychiatry. Dr. Edley is a national presenter and is published in a broad variety of health care areas.

Mary Hartley (Immediate Past Chair of the Commission) has been serving as Interim Executive Director of the Parent Education and Advocacy Leadership (PEAL) Center since February of this year. She has led statewide policy and legislative change as well as projects supporting transition to adulthood and employment, most notably, the self-advocate managed #IWantToWork campaign at United Way of Southwestern Pennsylvania. With United Way and county leadership, she initiated and launched a successful new model of employment collaboration (now in multiple businesses), the Career Transition Project. Mary is a parent advocate who got her start volunteering with the Local Task Force on the Right to Education. She lives with her husband and two children in Pittsburgh; her son is advocating on his own behalf through transition.

Zach Hicks became a member of The Arc of PA Board of Directors in March 2019. He is a self-advocate from the Harrisburg area who enjoys telling his story so that he can help others in the disability community. He works part time at Hershey's Chocolate World and has been seeking additional employment through the disability system. Zach has been active in Special Olympics for many years and has been trained to be a Global Messenger spokesperson for Special Olympics. He has also been trained to be an Athlete Representative and is currently the Athlete Representative for his local Area M program which services over 2000 athletes.

Vincent (Vince) Loose is the owner of GlenHaven Consulting LLC, a management consulting firm that provides advisory services primarily to nonprofit organizations and organizations that provide services to nonprofit organizations. Vince is the past President and CEO of SourceAmerica where he led organizational growth to create enhanced employment opportunities for professionals with disabilities, boost the resources of its nationwide nonprofit agency network, and engaged in government affairs to positively impact the disability community at large. Prior to SourceAmerica, Loose served as President and CEO of UniqueSource Products and Services in Pennsylvania, where he grew employment for

professionals with disabilities at the state level. He currently serves as a Board Director for the Pennsylvania Association for the Blind. Additionally, Loose brings a career in business development, operations, government contracting and consulting to affect meaningful change for the organizations he serves. Loose earned his B.S. in Applied Economics and Computer Science from Albright College.

Donna Partin has been the President and owner of Merry Maids operations in Mechanicsburg, York, Lancaster and Reading since 1989. The enterprise is one of the top 20 in the U.S. and has won numerous awards for sales and customer service. Originally from South Jersey, Donna moved to central PA in 1987 as a golf professional playing on the women's pro tour. Donna is the Founder and Chair of D.R.E.A.M. Partnership. The non-profit was inspired by her daughter, Demi, to develop college programs and employment opportunities for students with intellectual disabilities. Also, she serves on the NFIB PA Leadership Council and as the Board Member of Cumberland Valley Eagle Foundation. She holds a Bachelor of Science in Health and Physical Education from West Chester University and Master of Science in Sports Management from University of Massachusetts. Donna is married to Dwayne Keller, Keller Financial Group and has a son working in Washington DC.

Stephen S. Pennington, Esquire is the C.E.O. and President of the Center for Disability Law & Policy, which administers the Pennsylvania Client Assistance Program or CAP. CAP is the federally designated statewide advocate for persons with disabilities seeking or receiving services from the Office of Vocational Rehabilitation, Centers for Independent Living and all other programs funded under Title I of the Rehabilitation Act of 1973. Mr. Pennington is currently a member of the Pennsylvania Rehabilitation Council and Statewide Independent Living Council. He is also a disability policy expert and has extensive experience with issues involving the employment of persons with disabilities. He has authored position papers addressing the Pennsylvania Civil Service hiring process and the need for dedicated vocational rehabilitation services for persons who are blind and visually impaired. In addition to his advocacy on behalf of individuals with disabilities, he is an accredited VA attorney and represents disabled veterans with service connected compensation claims.

Paul Stengle is a happily married man of 28 years to his wife Linda and a proud father of two sons Brendan and Harrison. Paul Stengle has worked as the CEO of The Arc Alliance for the last 33 years. Before that, he was the Director of residential services for The Arc of Cumberland/Perry counties. Paul Stengle is a certified guardian, a certified rehab counselor, and a court-qualified mediator. He has a bachelor's degree in mathematics and psychology. His Master's degree is in education as a Rehab Counselor from the University of Pittsburgh. He has served many nonprofit boards and councils including: Employment First Oversight Commission of PA ; the Pennsylvania Guardianship Association; Boyertown School Board; The Pennsylvania Conference of Executive Directors of The Arc of Pennsylvania; Pennsylvania State Interagency Coordinating Council; Pennsylvania Protection and Advocacy, Inc.; Pennsylvania Waiting List Campaign; Pennsylvania Coalition of Citizens with Disabilities; and many other organizations.

Heidi Tuszynski MS, NCC, LPC is a person with a visual disability and resides in Erie, PA with her husband and daughter. She is a Nationally Certified Counselor and a Licensed Professional Counselor and holds a Bachelor's degree in Social Work and Masters in Counseling. She has over 25 years of experience working for nonprofits in the Erie community working with grieving children, individuals who are visually impaired and blind, individuals with mental health issues, and advocating for parents and children with disabilities in the educational system. Heidi is the former Chair of the Pennsylvania Rehabilitation Council and a member of The Governor's Advisory Committee for Persons with Disabilities.

Susan Miller Tomasic graduated from Messiah (College) University with a B.S. in education. After more than a dozen years as a classroom teacher, Susan made a career change to corporate training coordination. Susan began working for the PA Statewide Independent Living Council, was later appointed by Gov. Rendell to the PA SILC board, and now serves as its chair. Susan has been an active advocate for the disability community at local, state, and national levels for more than 22 years. Susan, her husband, Frank, and their children, Jason and Leah, reside in South Hanover Township, Pennsylvania.