



**Written Testimony of Shannon Austin  
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Joint Hearing of Senate Labor and Education Committees  
OVR's Collaboration and the 2020 Memorandum of Understanding with the Bureau of Special  
Education  
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Thank you for the opportunity to submit written testimony about this important topic, Collaboration and the 2020 Memorandum of Understanding between the Office of Vocational Rehabilitation (OVR) and the Bureau of Special Education (BSE). I am Shannon Austin, Executive Director of OVR at the Commonwealth of Pennsylvania's Department of Labor & Industry.

**Research on Students with Disabilities and the Impact of Employment**

The year 2020 marked the 100<sup>th</sup> anniversary of the Vocational Rehabilitation (VR) program, the 45<sup>th</sup> anniversary of the Individuals with Disabilities Education Act (IDEA) and the 30<sup>th</sup> anniversary of the Americans with Disabilities Act. However, disparities between the in-school and post-school achievement for individuals with disabilities and individuals without disabilities persist.

IDEA mandates transition planning and services for students with disabilities, and the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunities Act (WIOA) in 2014, expands the population of students with disabilities that VR may serve and requires VR agencies to provide or arrange for the provision of Pre-Employment Transition Services in collaboration with their education partners.

While federal legislation and programs aim to improve outcomes for students and youth with disabilities, their impact has fallen short of intent. As of 2019, State Education Agencies (SEAs) continued to struggle with full compliance with the IDEA transition requirements, according to the Federal Office of Special Education Programs (OSEP). In the same year, for the first time in VR program history, more than half of the individuals served by the VR program were youth younger than 25 years old (Rehabilitation Services Administration (RSA), 2020).

Enrollment in postsecondary education differs for students with and without disabilities in 2019 [19.4% vs. 80.6%; Institute of Education Sciences (IES), National Center for Education Statistics (NCES) 2019], and was paralleled in employment (19.3% vs. 66.3%; U.S. Bureau of Labor

Statistics, 2020). It remains unknown how the COVID-19 pandemic will affect outcomes for students and youth with disabilities, but in July 2020, the national unemployment rate was 10.2% for individuals 16-64 years of age (U.S. Bureau of Labor Statistics, 2020) and higher for individuals with disabilities ages 16-24 (Office of Disability Employment Policy, 2020).

In order to increase the percentage of SWDs in post-secondary education and employment, it is necessary to address a major barrier posing a central challenge to developing more effective secondary practices: the fragmentation of existing services for students with disabilities (Shogren & Wittenburg, 2020). State and local partners need to build capacity to *align systems* and *develop infrastructure* to combat barriers for students, youth and their families to the services that may improve outcomes (Honeycutt et al., 2018).

Today, I would like to highlight the collaborative work between OVR and BSE in the development of a Memorandum of Understanding (MOU) to strengthen and expand services for Pennsylvania students with disabilities and, ultimately, increase competitive, integrated employment outcomes for persons with disabilities in Pennsylvania.

### **Pre-ETS Background**

The Rehabilitation Act, as amended by WIOA, added Pre-Employment Transition Services (Pre-ETS) to expand the types of services VR agencies may provide to students with disabilities as they transition from school to post-secondary employment and education. These services are designed to be an early start at job exploration for students with disabilities to maximize their potential to enter competitive, integrated employment. The increased emphasis on transition to employment in The Rehabilitation Act aligns with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 *et seq.*, and the Work Experience for High School Students with Disabilities Act, Act 26 of 2016.

The WIOA amendments to the Rehabilitation Act also expand the population of students with disabilities to include individuals between the ages of 14 and 21, enrolled in high school (secondary), post-secondary training or any other recognized education program, that have a disability as documented by an Individualized Education Program (IEP) or 504 Plan, or otherwise consider themselves a person with a disability. Pre-ETS can be provided to students who are eligible, as well as students who are considered potentially eligible, for OVR services.

The Rehabilitation Act's definition of a student with a disability is consistent with that of the IDEA. A student with a disability is defined by the IDEA as an individual with a disability in a secondary, post-secondary or other recognized education program who is:

- In the age range allowed for transition services under the IDEA or, if the state has a different range for transition services, within the state age range for transition services; and
- is eligible for, and receiving, special education or related services under Part B of the IDEA or is an individual with a disability, for purposes of section 504.

In Pennsylvania, this would be students with disabilities ages 14 through 21 years old. However, for the 2021-22 school year, the maximum age was temporarily expanded to age 22 by Act 66 of 2021, which amended the Public School Code, Act of March 10, 1949 (P.L.30, No.14).

In addition to OVR eligible students, the Rehabilitation Act amendment expanded the number of students with disabilities who may receive services to include “potentially eligible” students. “Potentially eligible” students include all students with disabilities regardless of whether they have applied or been determined eligible for VR services. However, “potentially eligible” applies only in the context of Pre-ETS. This means that students with disabilities who need individualized services beyond the scope of Pre-ETS must apply and be determined eligible for OVR services and develop an approved Individual Plan for Employment.

There are five categories of “required” Pre-ETS listed in the Rehabilitation Act. The required Pre-ETS must be made available to students with disabilities and include:

- **job exploration counseling** to help students learn about jobs and pick a career;
- **work-based learning** to use community workplaces to provide knowledge and skills to help students connect school experiences to real-life work activities and future career opportunities;
- **counseling on opportunities for enrollment in comprehensive transition or post-secondary education programs** to help students decide if college or training after high school is right for them;
- **workplace readiness training** to teach students how to get and keep a job; and
- **instruction in self-advocacy** to help students build problem-solving skills and communicate their needs and interests.

Pre-ETS can be provided in a group setting or on an individual basis and may be provided by a combination of OVR staff, community rehabilitation providers and/or other agencies. These required Pre-ETS must be provided for all eligible students who need them. However, not all of the required Pre-ETS must be provided to each student with a disability; each student should receive services appropriate for their success. Pre-ETS, as is true for any vocational rehabilitation service, must be provided solely based on the individual's need for that service.

If funds remain after providing the required Pre-Employment Transition Services to all students with disabilities who need them within a fiscal year, OVR may provide authorized services that improve the transition of students with disabilities from school to post-secondary education or an employment outcome. Examples of authorized services may include providing training to OVR Vocational Rehabilitation Counselors and school personnel, disseminating information, developing model transition demonstrations and other outreach activities.

The Rehabilitation Act also tasks OVR with coordination of Pre-ETS for students with disabilities. Coordination of Pre-ETS include activities such as:

- attending IEP meetings;
- working with local Workforce Development Boards, One-Stop Centers and employers to develop work opportunities that include internships, summer employment, year-round employment opportunities and apprenticeships;
- working with schools to coordinate and ensure the delivery of Pre-ETS; and
- attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act.

### **Transition Services**

Vocational rehabilitation services are to be provided on a continuum, with Pre-ETS being the earliest set of services available to students with disabilities. Ideally, Pre-ETS will help these students begin to identify career interests that will be explored through additional vocational rehabilitation services such as Transition Services.

Following the continuum, Transition Services represent the next set of vocational rehabilitation services which may be provided to a broader population - both students with disabilities, as previously defined, and youth with disabilities. Transition services are outcome-oriented and promote movement from school to post-school activities, including postsecondary education, vocational training, and competitive integrated employment. As such, Transition Services may include job-related services, such as job search and placement assistance, job retention services, follow-up services and follow along services, based on the needs of the individual. The Rehabilitation Act specifies that Individualized Transition Services must be provided to students who have been determined eligible for the VR program and in accordance with an approved individualized plan for employment.

While the Rehabilitation Act requires OVR to provide Individualize Transition Services, this does not eliminate the school's responsibility for providing a free and appropriate public education and appropriate Transition Services required under IDEA. Local Education Agencies (LEAs) are to continue providing the same or enhanced Transition Services to students with disabilities as required under the IDEA. Pre-ETS should never replace programs provided by school districts but should supplement those services being provided by LEAs.

There may be questions about whether OVR or the LEA is responsible for providing and paying for services due to the nature of the services being provided. There are instances in which some special education and related services under the IDEA may also be services provided under the VR program. Decisions must be made at the State level about which agency, OVR, the SEA, or the LEA, is responsible for providing and/or paying for Pre-ETS or Transition Services that may be both a special education (or a related service) and a VR service. Pre-ETS and Transition Services under the Rehabilitation Act may be categorized as both VR services under the VR program and as special education or related services under the IDEA.

### **Coordination with Education Officials**

The Rehabilitation Act not only mandates OVR provide Pre-ETS and Transition Services, but also requires OVR to execute a formal interagency agreement with the SEA, which in Pennsylvania is the BSE under the Department of Education. The formal agreement must provide for:

- consultation and technical assistance to assist LEAs in planning for the transition of students with disabilities from school to post-school activities, including Pre-ETS and other VR services;
- Transition planning by OVR and LEAs for students with disabilities that facilitates development and implementation of IEPs under the IDEA;
- roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for Transition Services and Pre-ETS;
- procedures for outreach to and identification of students with disabilities who are in need of Transition Services and Pre-ETS, with outreach occurring as early as possible and including at least a description of the purpose of the VR program, eligibility requirements, application procedures and the scope of services that OVR may provide eligible individuals;
- coordination necessary to satisfy documentation requirements of federal regulations for students and youth with disabilities seeking subminimum wage employment; and
- assurance that neither the SEA nor any LEA will enter into a contract or other arrangement with an entity to operate a program where youth with a disability are engaged in sub-minimum wage work.

IDEA and the Rehabilitation Act make clear that Transition Services require a coordinated set of activities within an outcome-oriented process that relies upon active student involvement, family engagement and cooperative implementation of transition activities, as well as coordination and collaboration between OVR, BSE and the LEA. In addition to the IDEA's and the Rehabilitation Act's requirements for the provision of coordinated Transition services to students and youth with disabilities, the Rehabilitation Act also requires State VR agencies to collaborate with LEAs to provide, or arrange for the provision of, Pre-ETS to students with disabilities.

Another piece of legislation that includes coordination with education is The Work Experience for High School Students with Disabilities Act (Act 26). Act 26 mandates OVR, in collaboration with Pennsylvania's Department of Education (PDE), to collect and report data related to high school students with disabilities and with facilitating the process of job and career development between local education agencies (LEAs) and employers. As outlined in Act 26, and in collaboration with LEAs, OVR will provide information for the development of individual education plans for high school students with disabilities, ensuring that job skill training is included in the plans, when appropriate. When possible, OVR staff will attend individual education plan meetings in person or by alternative means, such as video conferences and conference calls, when invited by LEAs.

The partnership between OVR, BSE and the LEA is most important during the planning process for each student but should also include outreach efforts and the coordinated provision of services to students and youth with disabilities. The coordination and collaboration between VR agencies and schools is to the benefit of every student with a disability.

### **Development of the MOU between OVR and BSE**

OVR has worked with BSE over the last two years to develop and implement an MOU that meets the requirements of the Rehabilitation Act and the IDEA. The OVR and BSE MOU will ensure that there is a plan of action requiring coordination and collaboration between OVR and BSE to support the transition of students with disabilities from high school to adult life. This MOU is a plan to coordinate Pre-ETS and Transition Services for students with disabilities, regardless of the severity of the disability, including those individuals with complex, medical and behavioral support needs, through a formal interagency agreement or other mechanism for interagency coordination. The MOU will also allow OVR and BSE to determine if OVR would be supplanting Transition Services under IDEA through collaboration and conversation with the school making the request and assessing the need for services.

This MOU allows OVR and BSE to clearly specify the plans, policies and procedures for coordinating services to facilitate the transition of students, including:

- provision of Pre-ETS
- consultation with and technical assistance from OVR to LEAs in planning for the transition of students with disabilities
- a continuous communication plan to facilitate planning and implementation of policies and procedures for coordinating services to facilitate the transition of students
- a commitment from both partners to coordinate and collaborate efforts to implement services
- clear expectations between OVR, BSE, LEAs and families
- defined roles and responsibilities, including financial and programmatic responsibilities of each agency, including provisions for determining State lead agencies and qualified personnel responsible for Transition Services and Pre-ETS
- bring continuity of services as students transition into adult life and competitive integrated employment and/or post-secondary education.

OVR and BSE have taken a very active approach to collaborating between their agencies to ensure the seamless transition of students with disabilities from school to work. OVR and BSE entered into a comprehensive interagency agreement with the National Technical Assistance Center on Transition: The Collaborative (NTACT:C) to facilitate this MOU and continue to meet biweekly with NTACT-C facilitators, parents, and youth to continue to develop guidance and procedures.

The OVR-BSE MOU was publicized in March 2021. There was a podcast with Carole Clancy, BSE Director, and Shannon Austin, OVR Executive Director, along with three public co-sponsored webinars that were hosted this spring to introduce the MOU and its corresponding toolkit. This

toolkit contains resources, such as a crosswalk between IDEA, WIOA and Pennsylvania Work Standards, and Pre-ETS marketing materials. Throughout the series, participants were introduced to tools for collaboration between OVR, BSE, LEAs, youth and families. These statewide webinars included:

- Unpacking the Memorandum of Understanding on April 8, 2021 (9:00 AM – 11:00 AM): This session provided information regarding the legal requirements and tenants of the MOU between OVR and BSE. In addition, a detailed plan for implementation was introduced.
- Engaging Stakeholders on April 21, 2021 (9:00 AM – 11:00 AM): During this session, presenters shared strategies for engaging stakeholders in the transition planning process. Information regarding strategies for IEP participation, including family engagement, student-led IEPs, and agency involvement were presented along with resources for including OVR in the IEP planning process and planning for Transition Services.
- Strategies for Aligning Efforts on May 13, 2021 (9:00 AM – 11:00 AM): During this session, participants learned strategies to align efforts utilizing the Pennsylvania Career Education and Work Standards and Pre-ETS with IDEA transition requirements.

Additional highlights and recent accomplishments resulting from the MOU include:

- marketing materials for services (youth/families and professionals)
- defining BSE and OVR roles and responsibilities
- IEP meeting invitations issued to OVR staff
- establishing a process for coordination between OVR and the LEA
- developing a Glossary of Terms and Common Language among government agencies
- WIOA/IDEA/ESSA crosswalk & considerations
- relaunching Experience the Employment Connection (EEC), a partnership between OVR, ODP and BSE
- a State Plan for the Statewide Leadership Team on Transition (multi-partner, including OLTL, ODP, OMSAHS, etc.)
- development of an Interagency Plan document for local resource coordination
- development of a new collaborative website at [www.pasecondarytransition.com](http://www.pasecondarytransition.com)
- A statewide cross-training plan
- BSE and OVR Leadership co-presenting on various topics (PEAL presentation, Transition Conference, planning for co-presentations during the school year)
- increased communication with local Transition Coordination Councils (TCCs)
- 3 new summer Pre-ETS provider agreements (My Work Initiative, Professional Connections Experience and Summer Post-secondary Experience)
- Project SEARCH provider agreement released in January, which streamlined the process for creating new sites and standardized the program statewide

## **Upcoming Projects**

Additional projects that are in the planning stage include:

- a statewide initiative to hire Youth Ambassadors (YA) in each of the 29 Intermediate Units, who will provide the youth perspective. The YA will work collaboratively with teachers, OVR, LEA Transition Coordinators, Pennsylvania Training and Technical Assistance Network (PaTTAN) and BSE staff to improve the transition of students with disabilities from school to postsecondary education or an employment outcome. YAs will participate in local and statewide meetings, assist with program development, assist in the development of youth engaging media and support students with disabilities in their communities.
- a statewide initiative to hire Transition Employment & Agency Mentor - Navigators (T.E.A.M.-Navigator) in each of the 29 Intermediate Units who will help implement the OVR BSE MOU in local communities. They will work collaboratively with teachers, OVR staff, Intermediate Unit (IU) Transition Training and Consultation (TAC) staff, other agencies and community partners, families, students with disabilities and LEA Transition Coordinators in support of the OVR-PDE MOU to ensure the successful service implementation of Pre-ETS and Transition Services between OVR and regional LEAs to improve the transition of students with disabilities from school to postsecondary education or an employment outcomes.

## **Conclusion**

The MOU between OVR and BSE will be an important tool in furthering the goal that Pennsylvania committed to with the adoption of the Employment First Act, 62 P.S. § 3401 *et seq.*, Employment First emphasizes competitive integrated employment as the first and preferred outcome for individuals with disabilities. An employment outcome provides many benefits, including, but not limited to, increased opportunities for economic self-sufficiency, contribution to the individual's community, building a network of social relationships and the creation of opportunities for lifelong learning. The services that OVR and BSE will provide as a result of the MOU will be, for students and youth with disabilities, the first step towards employment and independence.

In conclusion, I would like to leave you with this final thought: successful collaboration between OVR and BSE is critical to ensuring that Pennsylvania students with disabilities can engage in community employment. This is a partnership built on the common goals and values of the IDEA and the Rehabilitation Act to enable students and youth with disabilities to seamlessly access services and supports to achieve their career goals. It helps ensure that students with disabilities, including those with the most significant disabilities, are presented with meaningful opportunities to prepare for the transition from school to an OVR program to further maximize independence in their communities, self-sufficiency and prepare for competitive integrated employment.