

**Testimony of Stephen Suroviec, Chair of the PA Employment First Oversight Commission
Before The PA House Labor & Industry Committee's Subcommittee on Employment and Unemployment
On The Topic of the PA Office of Vocational Rehabilitation & the PA Employment First Oversight Commission
On November 22, 2021 at 10:30 a.m. in Room 205 Ryan Office Building, Harrisburg, PA**

My name is Steve Suroviec. I'm the current Chair of the PA Employment First Oversight Commission (EFOC). I'd like to thank Chairwoman Klunk for holding this hearing this morning to learn more about the EFOC and the EFOC's annual report, which was issued just over a month ago on October 1, 2021. My testimony today will attempt to do two things. First, I will provide a summary of the aforementioned report. Second, I will highlight a few of the report's recommendations that are pertinent to the General Assembly and important to ensuring that Employment First policy takes root in Pennsylvania's publicly-funded programs enumerated in Act 36.

As a reminder, Act 36 specifically charges the EFOC with issuing an annual report that:

- Details the progress made on 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.

The EFOC's October 1st report is the third such report issued by the EFOC since its inception. Given that the EFOC has now been in existence for over 3 years, members of the Commission have been able to see some trends develop, including progress being made and the lack of progress. The EFOC October report draws attention to this. On page 3, it reads, "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." It report goes on to say the following (summarized):

- The EFOC does not have an adequate sense of whether all provisions of Act 36 are being implemented. This is something the EFOC has requested of the Governor's Office has agreed to work with its state agencies to inventory all the provisions of the Act and summarize activities underway to implement the provisions. This will be something the EFOC will spend time on during its 2022 meetings.
- The EFOC provides in the report its sense of how certain state agencies are doing in terms of implementing Employment First policy, as required in Act 36.
 - DHS's Office of Long-Term Living "continues to make little to no progress as it relates to employment outcomes for people with disabilities through Community HealthChoices."
 - DHS's ODP has taken employment first seriously and has a number of things in place to increase competitive-integrated employment (CIE) outcomes for its participants. At the same time, the

number of ODP participants working in CIE seems to have plateaued at around 16-17 percent. Reasons for this will be examined by the EFOC during 2022.

- Regarding the PA Department of Education's (PDE) Bureau of Special Education, the EFOC commended its current Bureau Director, Carole Clancy, for steps she's been taking to improve data collection and work with OVR. However, the EFOC report states that, what's less clear, is whether or to what extent those in positions of leadership above the Special Education Bureau within PDE are taking the Employment First policy outlined in Act 36 seriously and using it as an opportunity to exhibit real leadership to challenge the 500 individual school districts 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 post-secondary education placement intended to lead to competitive-integrated job)."
- The EFOC points out that the Governor's Office of Administration (OA) has the opportunity to make Pennsylvania state government a model employer and national leader in the area of disability hiring, and while OA has initiated some steps to advance disability employment, the EFOC believes there is much more that could be done with a greater sense of urgency (e.g., a federal "Schedule A" type initiative; customized employment job classification; comprehensive review of all steps in the HR process to identify ways to remove or lessen barriers, etc.).
- And, with respect to OVR, the EFOC report acknowledges that OVR is state government's lead agency on disability employment policy and believes its employees are competent and passionate about their mission. At the same time, the EFOC states that "the knock" on OVR has been, and continues to be, its complicated processes, lengthy delays, and a general sense that it "prioritizes the bureaucracy over customer experience." The EFOC concludes "The greatest opportunity before OVR is to improve its customers' experience."

In addition to these summarized observations about the key state agencies involved with disability employment, the EFOC report also comments on the Act 36 requirement (Section 4, subsections f, g, i, and j) in which 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. That section of the Act also requires the Office of the Governor to submit an annual report to the General Assembly, and it should include the following:

- 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.

As it pertains to this Act 36 requirement, the EFOC commented in its October report that the initial plan seemed to be “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.” The report goes on to say “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 information in terms of progress being made on several initiatives contained in the plan.” The EFOC would definitely welcome further examination of this requirement and the Governor’s Office plan by this subcommittee in the future.

Moving on to the “Measurable Goals & Objectives” section of the report, the EFOC includes the following 11 measurable goals and objectives:

1. 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.
2. By 2022, 3000 more individuals (ID/Autism) who have an employment goal in their ODP Individual Support Plan (ISP) will be receiving employment services.
3. 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
4. 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.
5. 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).
6. 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.
7. 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. 1st year goal 2000 students; 2nd year goal 2500 students; 3rd year goal 3000 students.
8. 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.

9. OMHSAS (Office of Mental Health and Substance Abuse Services) will annually report and transition at least 600 additional mental health consumers to employment.
10. By 2022, the Pennsylvania state workforce [includes state agencies and state colleges/universities] will exceed a 7% hiring goal.
11. Within 1 year, all counties will have (or be part of) at least 1 Local Cross-Disability Employment Coalition.

When it comes to recommendations to the Governor's Office and General Assembly, the EFOC's October report includes 6 specific recommendations to the legislature and 25 recommendations to the executive branch.

Executive branch recommendations:

- 1) Create Real Cross Agency Collaboration and Coordination.
- 2) Establish a Customer Feedback System (Across Systems).
- 3) Establish an annual statewide survey for individuals using system supports to determine expectations and outcomes for employment (starting in Early Intervention).
- 4) Create a publicly available dashboard of employment data across all departments 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.
- 5) Measure service delivery indicators should be created by individuals' case numbers (across all departments) to track time, use of services, and employment outcomes/retention.
- 6) Conduct education and outreach for new MAWD statute - *Medical Assistance for Workers with Disabilities: Workers with Job Success* (Act 69 of 2021).
- 7) Statewide and regional transition data broken down by race and ethnicity and disability.
- 8) 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.
- 9) ODP should reexamine and reform, if necessary, the service definition for "Advanced Supported Employment", including eligibility, rate amounts, and the method of service reimbursement.
- 10) ODP should report separately on use of base dollars to support non-CIE outcomes.
- 11) OLTL should provide additional information and report data separately on its participants who are considered employed but not working in a competitive-integrated job.
- 12) All government entities should consistently use the acronym Pre-ETS instead of PETS for Pre-employment Transition Services.
- 13) Data should be reported broken down by race/ethnicity and other diversity groups.
- 14) State and county administrators should continue to increase and align, wherever possible, financial

incentives for agencies/providers and Support Coordinators to increase CIE outcomes.

- 15) DHS should implement value-based purchasing arrangements in the Behavioral HealthChoices program that include addressing employment as a social determinant of health.
- 16) Workforce Development should allocate funding for innovation for Employment First efforts – support promising practices that increase employment for people with disabilities within businesses.
- 17) 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.
- 18) The PA Department of Labor and Industry should track and publish the labor participation rate for Pennsylvanians with disabilities along with employment data for other Pennsylvania cohorts.
- 19) The Governor’s Disability Cabinet should make transportation a high priority, as it 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. Specifically, surveys and data collection should be undertaken that inform policy and program decisions; and, 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.
- 20) Employment and transition service data for students using Cyber Schools, home schooling, and 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.
- 21) The Governor’s Office should develop a consistent definition of when and why small data elements should be suppressed (for confidentiality) and apply it consistently across all state agencies and age groups.
- 22) At least one year before graduation, 50% of all students with an IEP should lead their own IEP meeting; and, 100% of students should 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.
- 23) Benefits counseling should be made available to students with disabilities before they leave high school.
- 24) The Governor’s Office of Administration should create or allow state agencies to develop a “customized employment” job classification.

25) 100% of graduating students with an Individual Education Plan (IEP) should 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.

Recommendations for the General Assembly:

1. 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. Details of subsection h are as follows:
 - Subsection h(1) says "state agencies shall make an effort to employ individuals with a disability in no less than 7% of the overall state workforce.
 - Subsection h(2) requires state agencies to "review on a biannual basis, the adequacy of hiring, placement and advancement practices with respect to individuals with a disability.
 - Subsection h(4) requires the Office of Administration (OA) to "develop a framework for individuals to self-report a disability."
 - Subsection h(5) 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%.
2. 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 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. And 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%.
3. 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 OVR's Hiram G. Andrews Center (HGAC). There are presently only 7 other facility-based programs like HGAC nationally. Approximately \$23 million is directed from OVR's budget to fund this 24/7 campus operation. OVR's per-customer cost for HGAC is significantly higher than its 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.

4. 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.
5. Amend Act 36 or the recent Civil Service Reform Act to make it easier for qualified applicants with disabilities to be hired by state government agencies by creating something similar to the federal government's "Schedule A" process (a special appointing authority that agencies can use to non-competitively appoint individuals who have a significant disability) and by creating in law a "customized employment" job classification.
6. Introduce new legislation to add additional safeguards to Medical Assistance for Workers with Disabilities (While this was included in the EFOC report, it is my understanding that advocates for MAWD are working with DHS at this time to address implementation issues that have occurred between CMS and DHS, and those same advocates are not encouraging new amendments to MAWD until the issues are worked out.)

Finally, the EFOC ends its October report by discussing a handful of issues the EFOC would like to focus on during 2022. First, as mentioned earlier in my testimony, the EFOC does not have a good sense of whether each provision of Act 36 is being implemented. The EFOC has requested that the Governor's Office work with state agencies to complete an assessment of each Act 36 requirement to indicate whether and how each one is being implemented. The EFOC will review the results so it can provide recommendations for effective strategies and policies needed to support the implementation of the Act.

Second, the EFOC has requested that the administration put in writing its views and positions on the EFOC's several goals, objectives and recommendations as published in its annual report. It would be extremely helpful for the EFOC to know with some level of clarity the administration's positions. If certain items in the EFOC report are not supported by the administration, then the EFOC could consider new or amended goals, objectives and recommendations during its next annual report.

Third, a plain reading of the Act indicates that the Employment First 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, the EFOC believes the Act is not limited to just agencies like OVR, ODP, OLTL, OMHSAS, BSE, and OA but all state agencies. During 2022, the EFOC 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.

Fourth, 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). For such businesses, 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. For decades, many have hailed this arrangement because it has facilitated state contracts to organizations that have created and sustained jobs for people with disabilities, including competitive-integrated jobs. 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.

Finally, the EFOC learned a little about a program in southeastern PA called “Community Autism Peer Specialist Program (CAPS)”. CAPS was developed by Community Behavioral Health (CBH), the behavioral health managed care organization overseeing Behavioral HealthChoices in Philadelphia. The initiative is based on the Certified Peer Specialist Model. CBH is collecting information about this program and the EFOC may consider a recommendation in its 2022 report that CAPS be expanded to other regions of the Commonwealth, with funding coming from Behavioral HealthChoices, ODP, and/or OVR.

On behalf of all the Commissioners on the EFOC, I want to thank this subcommittee for holding this hearing and shining a light on Employment First policy and the work of the EFOC. This concludes my testimony.