**State Rehabilitation Council (SRC)**

**Policy Committee Meeting**

**October 17, 2024, 10:00 a.m. – 12:00 p.m.**

Location: Department of Rehabilitation (DOR) Central Office, 721 Capitol Mall, Room 407, Sacramento, CA 95814

*Draft Meeting Minutes*

Note: This committee meeting was held in accordance with California Government Code section 11123.5. There may be members of the public body who participated in meeting who were granted a reasonable accommodation per the Americans with Disabilities Act (ADA).

# Attendance:

* SRC Policy Committee members in attendance (by Zoom): Chanel Brisbane, Theresa Comstock, Ivan Guillen
* SRC Policy Committee members absent: La Trena Robinson
* SRC members in attendance as members of the public (by Zoom): Gregory Meza, Shannon Coe, Brittany Comegna
* DOR staff in attendance: Kate Bjerke (present at DOR’s Central Office), Lisa Cushman (by Zoom), Cory Lemings (by Zoom), Peter Frangel (by Zoom), Michele Kaplan (by Zoom), Nancy Wentling (by Zoom)
* Members of the public in attendance (by Zoom): Vanessa Ocana, Danny Marquez, Christopher Waltrous, Sarah Issacs, Joseph Ramirez-Forcier

# Item 1: Welcome and Introductions

Chanel Brisbane, SRC Policy Committee Chair, welcomed attendees to the meeting. Kate Bjerke, SRC Executive Officer, reviewed the Bagley-Keene Open Meeting Act requirements.

# Item 2: Public Comment

Danny Marquez, representing the California Association of Social Rehabilitation Agencies (CASRA), emphasized the need for the Department to support more community-based programs in becoming vendorized. Specifically, he suggests that the DOR staff responsible for this process receive updated training to improve efficiency and effectiveness. Marquez encouraged the SRC Policy Committee to consider addressing this issue either during a regular SRC meeting or in ongoing policy development.

# Item 3: Approval of the July 11, 2024 and August 8, 2024 Policy Committee Meeting Minutes

It was moved/seconded (Comstock/Guillen) to approve the July 11, 2024 and August 8, 2024 SRC Policy Committee meeting minutes as presented (Yes – Comstock, Guillen, Brisbane), (No – 0), (Absent – Robinson), (Abstain – 0).

# Item 4: Supported Employment Services

Chanel Brisbane, SRC Policy Committee Chair, provided the following background information:

* In 2021, Senator Maria Elena Durazo authored SB 639, which ends the use of subminimum wage in California starting January 1, 2025.
* Prior to SB 639, federal and state law allowed employers to pay people with disabilities less than minimum wage and subjected them to segregated work settings through the use of subminimum wage certificate programs.
* SB 639 required the development of a plan to phase out the use of these certificate programs and to increase access to competitive, integrated employment opportunities for individuals with disabilities.

Brisbane explained that during the December 4 – 5, 2024 SRC quarterly meeting, DOR will share an update on the phase out of subminimum wage, and in preparation for that presentation, Lisa Cushman, Analyst with DOR’s Policy and Performance Section, will present an overview of supported employment services that assist individuals with the most significant disabilities with obtaining and maintaining employment in competitive, integrated settings. Information included: Title VI grant for funding supported employment, what are supported employment services, what is job coaching, how is progress evaluated, what is different in a plan for supported employment, and what are the special considerations for youth (reference [appendix A](#_Appendix_A_–) for full presentation). Following the presentation, there was an interactive discussion between the SRC Policy Committee members and DOR representatives which included the following:

* Confirmation that supported employment services are for individuals with the most significant disabilities. This determination is made by the VR Counselor when determining eligibility.
* There is an option to extend supported employment services to twenty-four months if there are special circumstances. Consumers with intellectual or developmental disabilities may be connected to a regional center which could be a resource for extended services. Discussion about needing to identify an agency/source to provide these extended services. Discussion about utilization of job coaching.
* Can DOR provide supported employment services for individuals with traumatic brain injuries or mental health disabilities?
* Discussion about natural supports.

Public comments:

* Danny Marquez with the California Association of Social Rehabilitation Agencies (CASRA) inquired about the nexus between the Ticket to Work program and Phase 2 services and long-term supports.
* Christopher Waltrous noted that Veterans Affairs provides supported employment for veterans enrolled in the VA healthcare system.
* Sarah Issacs with Disability Rights California asked if there are services beyond job coaching that fall under the supported employment umbrella.

# Item 5: Self-Employment for DOR Consumers

Chanel Brisbane, SRC Policy Committee Chair, explained that during the September 11, 2024 SRC quarterly meeting, the SRC received an overview of self-employment resources available for DOR consumers. The SRC agreed that a follow up discussion was needed. Brisbane welcomed Cory Lemings, DOR Lead Employment Coordinator, to discuss questions and topics related to self-employment services and resources. Lemings provided a recap of the information provided on September 11th, reviewed self-employment data, available resources, regulations, and continual improvement (reference [appendix B](#_Appendix_B_–) for the full presentation). Questions from the SRC Policy Committee members included the following:

* Where are the self-employment subject matter experts located? Are they in every DOR District? (Yes)
* Why has the number of self-employment cases declined over the years, despite the pandemic potentially increasing self-employment as more people choose to work from home? (Exact reason is unknown, additional information and analysis is needed).
* Is there potential for VR Counselors to specialize in self-employment, similar to sector-based programs where counselors specialize in specific fields?

Public comments:

* Danny Marquez with CASRA asked if information available on which VR Counselors are handling the most self-employment cases, given the limited number of such cases over the last three to four years. Marquez is curious if data exists to identify which VR Counselors are most active in this area.
* Joseph Ramirez-Forcier with PRC noted that he’s observed a bias towards competitive employment (instead of self-employment) in the application process. Advocacy is required for self-employment as a career goal. Ramirez-Forcier emphasized the importance of community partnerships to help consumers pursuing self-employment.
* Christopher Waltrous noted that veterans are twice as likely to be small business owners.
* Sarah Isaacs with Disability Rights California spoke about regulations and policies that need to be updated related to self-employment. Reference [appendix C](#_Appendix_C_–) for written public comment that was shared by Issacs.

# Item 6: Debrief and Recommendation Development

SRC members debriefed from the meeting discussions. Highlights included:

* Regarding self-employment:
	+ Ensure the appropriate DOR staff receive the information from Sarah Issacs regarding self-employment and have the SRC follow up.
	+ There is a need for the Rehabilitation Administration Manual to provide accurate and updated information on self-employment.
	+ Ensure DOR staff are receiving training on self-employment.
	+ Agreement that the term “self-employment” is fine in the context of DOR and VR Services as it is the term that is used within regulations (there had been a suggestion to instead utilize the term “entrepreneur”).
	+ There is continued interest in exploring the possible recommendation of creating a team of VR Counselors who specialize in self-employment.

# Item 7: Adjourn

The meeting was adjourned at 12:00 p.m.

# Appendix A – Supported Employment Presentation

## **Slide 1: Supported Employment: An Overview**

[Image: DOR Logo with banner reading “60 years 1963-2023”]

## **Slide 2: Title VI Grant Funding for Supported Employment**

* Authorized by the Rehabilitation Act of 1973, as amended by WIOA.
* To assist in developing collaborative programs to support individuals with most significant disabilities, including youth with most significant disabilities.
* To provide supported employment services after an individual gets a job, for up to 24 months, and to supplement other VR services necessary to achieve competitive integrated employment.

## **Slide 3: What is Supported Employment?**

* Supported employment means competitive integrated employment.
* Employment is individualized and customized consistent with an individual’s unique strengths, abilities, interests, and informed choice.
* For individuals who have not historically been successful in achieving competitive integrated employment because of significance of disability and subsequent need for more intensive supported employment services.

## **Slide 4: What is a Supported Employment Service?**

* Ongoing services from time of placement until transition to extended services.
* For a period not to exceed 24 months, unless special circumstances.
* May include natural supports.
* Job coaching is a foundational ongoing support service.

## **Slide 5: What is Job Coaching?**

* On-the-job support to help individuals adjust to the workplace, learn job tasks, and build confidence.
* Gradually reduced until the individual can perform most, if not all, the job duties without assistance.
* Goal is to help the individual be successful in the job

## **Slide 6: How is Progress Evaluated?**

* Collaboration between the counselor, consumer, and service provider.
* Demonstration of work skills, efficiency, and productivity
* Mastery of soft skills:
	+ Independence
	+ Self-advocacy
	+ Social and interpersonal skills
	+ Work ethic
	+ Time management
	+ Use of public transportation

## **Slide 7: What is Different in a Plan for Supported Employment?**

* Includes all requirements of a traditional Individualized Plan for Employment.
* Adds Extended Services
* Extended Services Agreement: written agreement between DOR and another entity that documents commitment to provide or cover the cost of providing Extended Services when the individual transitions from DOR.
* If source is unclear, may state that there is a reasonable expectation that a source of Extended Services will become available.

## **Slide 8: What are the Special Considerations for Youth?**

* A youth with a most significant disability, under the age of 25, who requires intensive job coaching.
* May receive extended services, including job coaching, beyond 24 months, for up to 4 years until the youth turns 24 or until they qualify for another source of Extended Services.
* Intent to support the ability to maintain employment.

## **Slide 9: Success Story: Jane’s Path to Employment**

[Image: A young woman with long brown hair standing behind a necklace and accessory display in a retail store. She is wearing a blue jacket over a purple polo with a Claire’s logo and smiling. Behind her is an older woman giving a thumbs-up sign and smiling in the direction of the young woman]

## **Slide 10: Q & A**

[Image: “Q & A” characters shown as three-dimensional blue objects. Shadows are visible below, as is a faint reflection on a white background]

# Appendix B – Self Employment Presentation

## Slide 1: Self Employment for DOR Consumers: Follow Up Information

October 17, 2024
*SRC Policy Committee Meeting*

## Slide 2: Recap

The SRC received an overview presentation on Self-Employment (SE) during the September 11, 2024 Quarterly Meeting. Information included:

* Definition of SE, what DOR can and cannot provide, and informed choice
* Roles and responsibilities of the Rehabilitation Counselor, Consumer, Subject Matter Experts, and Small Business Consultants
* Developing the Individualized Plan for Employment and determining when a SE setting is appropriate.
* Assessing the SE employment setting and the proposed small business
* Scope of services provided for the SE setting
* Monitoring the operations of the small business

## Slide 3: Follow Up

The purpose of today’s presentation is to provide follow up information in response to questions from the September 11th meeting.

* Data
* Resources
* Regulations

## Slide 4: Self-Employment Data Snapshot

242 DOR consumers currently have self-employment identified as their IPE goal. Out of these 242 consumers, 63 are veterans.

| **Year** | **Number of Successful Self-Employment Case Closures** |
| --- | --- |
| 2019 | 88 |
| 2020 | 47 |
| 2021 | 29 |
| 2022 | 31 |
| 2023 | 36 |

## Slide 5: Available Resources

* DOR website: Self-Employment webpage <https://www.dor.ca.gov/Home/SelfEmploymentProgram>
	+ - Business Summary Template
		- Business Plan Template
		- You’re In Charge
		- Small Business Administration
		- California Small Business Development Center (SBDC)
		- SCORE
		- Disability IN
* DOR Self-Employment Subject Matter Experts

## Slide 6: Regulations

Question received during September 11th SRC meeting:

*How is a “setting” defined in our current virtual working landscape. Are remote setting eligible? If someone has a home business can a portion of their rent be charged or "reasonable" work cost?*

The DOR does not pay rent on space except in cases of first and last.

* Cal. Code Regs. tit. 9 § 7137 (“(b) The one-time, initial costs of establishing the small business are limited to such costs that are consistent with Section 7149 of these regulations, are appropriate and necessary to assist the individual to achieve employment in a self-employment setting, and are consistent with the usual and customary initial costs typically required for establishing similar small businesses, including:”)

## Slide 7: Continual Improvement

To further support DOR staff and consumers in developing self-employment plans, DOR has tasked the Subject Matter Experts have developed several subcommittees dedicated to supporting specific areas of self-employment.

1. Improve Accessibility of Resources

2. Addressing Main Barriers

3. Developing Specific Skills and Training Programs

4. Simplifying Regulatory Processes

5. Implementing Best Practices

DOR Developing Specific Skills and Training for Self-Employment Subcommittee

Staff Self-Employment Survey in Development to gather input from DOR staff on ways to improve services for their consumers seeking self-employment.

# Appendix C – Public Comment Submitted by Sarah Issacs

**October 16, 2024**

## **REHABILITATION ACT REQUIREMENTS IN CALIFORNIA**

The California Code of Regulations (CCR) was updated last year to comply with portions of the federal Rehabilitation Act. Some of the changes apply to self-employment. Most notably, [[1]](#footnote-1)\***a self-employment start-up business is no longer required to provide income at or above minimum wage within the first 12 months\*** to be considered successful. Additionally, Department of Rehabilitation (DOR) individuals can receive support to advance in their careers, rather than being restricted to receiving assistance for entry-level employment. Also, they can receive job retention services for self-employment.

However, there are still other Rehabilitation Act requirements that apply in California but are not yet reflected in the CCR or DOR’s Rehabilitation Administration Manual (RAM). These prohibit arbitrary limits on the cost, duration or source of services. In the meantime, it is essential that DOR applicants, clients, and staff are made aware of their rights and responsibilities by other means.

## **Key Changes in Self-Employment Regulations**

## How Small Business Income is Analyzed

Before February 2023, in analyzing whether a self-employment setting would be appropriate, DOR could consider whether the business was likely to: \***“Provide income for the individual at or above minimum wage\***, but not less than the customary wage and benefit level received by individuals engaged in the same or similar self-employment…”

**\*This is no longer the standard.\***  The new language in [9 CCR § was7136.6](https://govt.westlaw.com/calregs/Document/I4A7DC050B70811EDA10DB21D96ED2D62?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1) omits the minimum wage requirement**,** consistent with the federal law. The current language now states, in relevant part:

(b) A proposed self-employment setting is appropriate when:

(2) The proposed small business in which the individual will be self-employed is reasonably likely to produce sufficient income, within a reasonable period after the individual begins operating the business, not to exceed 12 months, to:

(A) Pay the necessary ongoing operating expenses of the small business, as specified in Section 7136.8 of these regulations; and

(B) **\*Yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.\***

This change occurred because federal legislators recognized that new businesses often do not produce a substantial profit margin within the first year. They updated regulations to help ensure that entrepreneurs with disabilities are not held to a higher and often unattainable standard than their counterparts without disabilities.

## Job retention assistance is available for self-employed individuals

As a result of the Workforce Innovation and Opportunity Act (WIOA), [9 CCR 7137(a)](https://govt.westlaw.com/calregs/Document/I6618B4F0B70811EDA10DB21D96ED2D62?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) was also updated to make clear that DOR can provide services “to assist the individual in preparing for **\*entering, advancing in, or retaining\*** work in a self-employment setting, and certain initial one-time costs to establish the proposed small business.”

The addition of the phrase, “entering, advancing in, or retainingwork” is extremely important because previously, DOR could only assist with “entry level employment.” That meant if somebody wanted to switch careers, they first had to demonstrate that they had a disability-related reason why they could no longer continue the employment they were in. However, the WIOA recognizes that people with disabilities should be supported to work to their fullest potential, consistent with their knowledge, skills, abilities, interests and informed choice. That means that now somebody who is already employed can get help from DOR to either advance in their current employment; switch to another career; or keep the job they are in and may be at risk of losing. In the context of self-employment, this means that if somebody is already employed but wants to start their own business, DOR could assist them with that. Similarly, if somebody is self-employed and wants help with job retention to keep their business, DOR can help with that as well.

## **Other Key Requirements**

There are other key requirements in the Rehabilitation Act that relate to all DOR services, including self-employment, but are not yet reflected in the CCR or the RAM. These criteria are extremely important for DOR staff to know when determining what services to provide.

Some of these missing points are contained in [34 CFR § 361.50](https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-361/subpart-B/subject-group-ECFR8c5f55ccf5c0da2/section-361.50). That section establishes that States must create written policies regarding the nature and scope of vocational rehabilitation (VR) services based on the individualized needs of each client. However, the policies must comply with the following:

**No arbitrary limits**: States cannot establish arbitrary limits on the nature and scope of vocational rehabilitation services.

**No out of state service exclusion**: States can establish a preference for in-state services but cannot prohibit out-of-state services.

**Flexible rates:** States can establish a reasonable fee schedule for services, but the rates:

* cannot be so low that it is effectively a denial of services, because no providers will accept that rate;
* cannot be absolute and must permit exceptions for individual needs;
* cannot establish absolute dollar limits on specific service categories or on the total services provided to an individual.

**Flexible duration of services:** States may establish reasonable time periods for providing services as long as they:

- are not so short that they effectively deny a necessary service

- are not absolute limits on a particular service or how long an individual can receive VR services

- permit exceptions

One of many examples of how this comes up in the self-employment context is in regard to the list of services that the CCR currently states cannot be provided on an ongoing basis. ([9 CCR §7136.8(g)](https://govt.westlaw.com/calregs/Document/I54779EE14C6B11EC93A8000D3A7C4BC3?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))) Although it is correct that DOR cannot provide these services indefinitely, DOR staff must look at the specific circumstances and needs of each individual and provide the services necessary, for the duration required, to help successfully launch the business. Per the federal regulations we cannot set fixed limits based on an arbitrary number of months without exception. When it comes to VR services, one size does not fit all.

1. *There is an \* before and after each section of bolded text in the body of this memo to indicate the emphasis for people using screeners.* [↑](#footnote-ref-1)