





Moving the Needle on Employment of People with Disabilities

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 Laura Owens, Ph.D.
 Ann Deschamps, Ed.D.
 TransCen, Inc.





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Why Is Work Important?

- Our culture expects people to be productive
- Work is a means for gaining status, self-determination and achievement of personal goals
- Tied to various aspects of status:
 - Possessions
 - Prestige
 - Power
 - Control
 - Influence





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Is Work a Choice?



Choice?

Expectation?





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We have come so far...

But have we really??



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Where are we today?

Institution _____	• Community
Segregation _____	• Integration
Integration _____	• Inclusion
Isolation _____	• Family/Friends
No School _____	• FAPE
Not Employable _____	• Unemployment
Treatment _____	• Services/Supports
Dependency _____	• Interdependence
No Choice _____	• Choice
Choice _____	• Self-Determination



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Despite efforts over the past decades, employment participation of people with disabilities remains relatively stagnant







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Stuck on an Escalator



https://www.youtube.com/watch?v=VrSUe_m19FY

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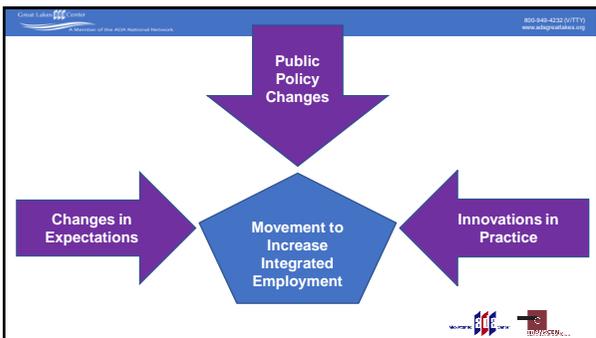
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What We Did (and why it didn't work)

- "Job Readiness"
- Focus on jobs, not careers
- Low expectations ("realistic")
 - "People with disabilities should be spared the soft bigotry of low expectations", Dr. Roy Grizzard, First Assistant Secretary of ODEP*
- Focus on job placement (versus job development)
- Job seeking process as an act of charity

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History of Community Employment

The timeline shows the following events:

- 1938: Fair Labor Standards Act
- 1965: Equal Employment Opportunities Commission
- 1973: Rehab Act
- 1978: Technology Act
- 1986: Rehab Act Amendments Supported Employment
- 1990: ADA
- 1997: IDEA
- 1998: Workforce Investment Act, Rehab Act Amendments
- 1999: Olmstead Decision
- 1999: TWWIA
- 2001: Rehab Services Return
- 2004: IDEA Customized Employment
- 2008: ADA Amendments
- 2010: Affordable Care Act
- 2014: Workforce Investment Opportunity Act

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Evolution of Policy Changes

- Individuals with Disabilities Education Act (IDEA) (2004)
- Americans with Disabilities Act (1990)/ADAAA (2008)
- Olmstead Decision (1999)
- Ticket to Work and Work Incentive Improvements Act (1998)
- Workforce Innovations Opportunity Act (WIOA) (2014)

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Evolution of Policy Changes

- Changes in RSA Regulations: successful employment outcome must be in integrated setting (2001)
- CMS: New suggested Medicaid Waiver service definitions emphasizing community employment (2011)
- CMS Home and Community Based Waiver Services (HCBS) Rule (2014)

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Evolution of Policy - IDEA

Individuals with Disabilities Education Act

- 1997 – Education for All Handicapped Children became the Individuals with Disabilities Education Act
- 2004 - In reauthorizing the IDEA, Congress increased the focus on accountability and improved outcomes by emphasizing reading, early intervention, and research-based instruction by requiring that special education teachers be highly qualified
- Definition and requirements for transition became more specific



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The Americans with Disabilities Act (ADA)

“...individuals with disabilities are a **discrete and insular minority** ... **subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society...** **resulting from stereotypic assumptions** not truly indicative of the individual ability of such individuals to participate in, and contribute to, society; ... **the Nation’s proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency...**”



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Evolution of Policy - ADAAA

Americans with Disabilities Amendments Act – 2008

- clarified the definition of disability under the ADA
- definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and generally shall not require extensive analysis



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The Olmstead Decision

“Institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life.”

“Unjustified isolation, we hold, is properly regarded as discrimination based on disability.”



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The Right to Integrated Employment

Established by the ADA & Supreme Court’s Olmstead Ruling

- Each person utilizing services through the state and local government has the right to be employed in the “most integrated settings”



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Challenges in Olmstead & ADA Implementation

- Changing the culture
- Identifying various forms of segregation within systems
- Understanding the pathways to segregation
- Unraveling accountability, funding & vested interests
- Identifying obsolescence and retooling for integration



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Opportunities in Olmstead & ADA

- Helping people live as full members of the community
- Reversing embedded stereotypes associated with disability
- Leveraging change in stagnant systems
- Addressing segregation among people with disabilities


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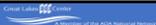

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Evolution of Policy: Employment First

- Employment as **first priority**
- Broadly focused on **all aspects of system**
- May begin **grassroots**, ultimately must be adopted and implemented by the **system**
- Primary focus is **not on eliminating** facility-based services but on increasing integrated employment


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Employment First

Expecting, encouraging, providing, creating, and rewarding integrated employment in the workforce:

- at minimum or competitive wages and benefits;
- as the first and preferred outcome for working-age youth and adults with disabilities;
- especially those with complex and significant disabilities, for whom job placement in the past has been limited, or traditionally has not occurred.


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Evolution of Policy - WIOA



The days of students with disabilities leaving school poorly educated, with no employment experience, no job prospects, living lives of poverty, and too often ending up in segregated programs need to come to an end.


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Major Changes

- Definition and expectations for competitive, integrated employment
- Definition of customized employment
- Pre-employment transition services for students with disabilities
- Restrictions on payment of sub-minimum wage to individuals with disabilities for 14(c) certificate holders


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Competitive Integrated Employment

- Full or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work, and fully integrated with coworkers without disabilities.
- Three components:
 1. Competitive earnings;
 2. Integrated Location; and
 3. Opportunities for advancement


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Customized Employment

- “Competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability”, “designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer,” and “carried out through flexible strategies.”



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Pre-Employment Transition Services

1. Job exploration counseling;
2. Work-based learning experiences, (includes in-school, after school, or community-based opportunities);
3. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at IHEs;
4. Workplace readiness training to develop social skills and independent living; and
5. Instruction in self-advocacy, including peer mentoring





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Restrictions on the use of Subminimum Wage

- Under section 14(c) of Fair Labor Standards Act, businesses may pay individuals less than minimum wage, based on worker’s production rate
 - 400,000+ individuals nationally
 - More than ½ earn less than \$2.50/hour



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Restrictions on the use of Subminimum Wage

- Individuals age 24 or younger may not begin work paying subminimum wage unless the individual has completed, and produces documentation indicating completion of each of the following:
 - Received Pre ETS or transition services under IDEA, and
 - Applied for VR services and found ineligible for services, or
 - Eligible for VR services but has not been successful and has been provided career counseling, I&R to other appropriate resources


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Evolution of Policy – Section 503

- The Section 503 regulations prohibit discrimination against individuals with disabilities and requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified individuals with disabilities
- An affirmative action program is a management tool designed to ensure equal employment opportunity and foster employment opportunities for individuals with disabilities.
- An affirmative action program institutionalizes the contractor's commitment to equality in every aspect of employment and is more than a paperwork exercise.
- An affirmative action program is dynamic in nature and includes measurable objectives, quantitative analyses, and internal auditing and reporting systems that measure the contractor's progress toward achieving equal employment opportunity for individuals with disabilities.


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Community Employment History

	1960	1970	1980	1990	2000	2010	2015
Service	Institution care	Sheltered employment	Supported employment	Person centered employment	Self-directed employment	Professional employment services	Customized employment
Environment	Isolated	Segregated	Integrated	Inclusive	Supportive	Universal Access	Win-win negotiation
Role	Resident	Client	Citizen	Consumer	Individual	Job seeker collaboration	Valued employee
Model	Medical	Developmental	Community	Supports	Person-directed	Self-directed employment first	Business focused
Character	Custody deprived	Get ready slots	Advocacy, civil rights	Informed choice	Self-determination	Self-advocacy/ Natural supports	Discovery and match


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Changes in Expectations

- Individuals with the most complex disabilities working successfully
- Disability no longer seen as insurmountable barrier to employment
- Employment is an outcome and an intervention


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Expectations are Changing...

- *Individuals and families*
- *Employers*
- *Public systems & policymakers*
- *Schools*
- *Society*


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Challenges...

- Understanding individuals' & families' fears about change and ensuring meaningful, informed choice
- Recognizing the *Dignity of Risk*
- Anticipating responses to adverse outcomes
- Devising measurable targets
- Creating data systems that align or connect


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The Biggest Challenge

Changing highly ingrained
culture and beliefs
regarding employment of
individuals with disabilities

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Innovations In Practice

- Movement from medical model to social model
- Mid 1980's – Emergence of supported employment
- "1990's – Expanded use of "natural supports"
- Mental health – employment as part of recovery
- Ongoing innovation and expansion in use of accommodations and assistive technology
- Innovations in transition practices focused on employment
- Increased focus on Self-determination and self-direction

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What we are doing (and how it's working!)

- Presumption of employment – all means all
- Services versus programs
- No more asking "Do you want to work?" but instead "Where do you want to work?"
- Opportunity - Job shadowing, internships, volunteering, community involvement
- Working is the norm – not the exception

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What we are doing (and how it is working!)



- Old model of *Train and Place* uses sheltered workshops to get people “ready” for work
- *Place and Train* Model quickly became “Place and Pray”
- New approach...**Discover, Connect and Support**

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Innovations in Practice

- Customized Employment strategies
- Changing workforce & workplace – flexible, more diverse, evolving use of technology
- Universal Design
- Braiding Funding
- Full day community-based services
- Individual Placement Support (IPS) model for individuals with MH and I/DD

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What Has Changed within the Business Community

- Diversity is sllllloooooowwwwwllllly becoming a priority
- Disability is more visible
 - Voluntary Self-identification – government contractors
 - Internship programs
- Employee Resource Groups

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Employer Survey on Disability Inclusion

- Survey of large employers in the Mid-Atlantic region
- Purpose: to find out more about their practice and needs related to recruiting, hiring, accommodating, and retaining qualified Workers with disabilities
- Findings:
 - Federal contractors want to find effective ways to increase this self-identification. Several respondents commented that some of their employees question the need to self-identify if they don't need accommodations, and others express concern that self-identification might lead to negative reactions from either co-workers or managers.



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Employer Survey on Disability Inclusion

- Employers want more effective training on interviewing requirements and skills for their recruiters and hiring managers.
- Employers want more information on business trends in addressing access issues across organizations (digital, structural, policies, and procedures).
- Employers also expressed a high level of interest in information on how to
 - make their talent acquisition portals and processes more accessible,
 - improve digital accessibility across their organizations,
 - address employee performance issues, and
 - make sure workplace emergency and disaster preparedness planning includes and supports individuals with disabilities.



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What Can We Do?

- Training, training, training and more training based on evidenced based well-researched practices (that we know work) – especially for people with the most significant disabilities!
- Improve dissemination of research on employment of people with disabilities
- Advocate to change funding to match policies



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What do we still need to change?

- Funding needs to align with policies
- Training and wages for staff
- Expectations of school personnel, families, adult providers
- Attitudes
- Medical model still exists in special education and vocational rehabilitation – contradictory messages
- Benefits – stay home, live in poverty, collect your check

WE HAVE MET THE ENEMY AND HE IS US.



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Keep Our Eyes on the Prize!



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Contact Information

<p>Ann Deschamps adeschamps@transcen.org</p>	<p>Laura Owens lowens@transcen.org</p>
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About TransCen

TransCen, Inc. is a national organization offering web-based and in-person training for state agencies, school districts, provider organizations, and others interested in meaningful work and community inclusion for individuals with disabilities.

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 Contact us at inquiries@transcen.org for more information!



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