

# Memorandum

**TO:** Vocational Rehabilitation Counselors and Job Placement Specialists  
**CC:** Vocational Rehabilitation Specialists, Nancy Sedlacek  
**FROM:** Glenn Morton  
**DATE:** February 7, 2011  
**SUBJECT:** Meeting Announcement & Results of January 28, 2011 Meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers is scheduled for Friday, April 22, 2011, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln. Meetings are held on a quarterly basis, with future meetings tentatively scheduled for July 22, 2011 and October 28, 2011.

The following are the results from the January 28, 2011 meeting. If you have questions or concerns about any of the discussions or decisions, please notify the court's Vocational Rehabilitation Section prior to the next meeting and they will be considered at that meeting.

## **1. Supportive Services and Plan Types:**

It was agreed at previous meetings that efforts must be made to focus vocational rehabilitation plans more directly on return to work. As a result, it was decided at the October 22, 2010 meeting that English language learning (ELL) will be allowed as a supportive service in a job placement plan, in lieu of a traditional ESL plan which does not require identification of a job goal. This led to additional questions as to whether traditional ESL plans will continue to be reviewed and approved by the Vocational Rehabilitation Section, and whether the concept of supportive services extends beyond English language training to other services such as a GED, ABE, or basic computer training.

Underlying the previous discussions and questions were two related and unresolved issues: (1) what is the line between permissible supportive services and impermissible mixing of the statutory priorities found at section 48-162.01(3), and (2) what is "formal training" under section 48-162.01(3)(e), or, in other words, what type of plan should qualify as "a period of formal training which is designed to lead to employment in another career field." It was proposed at this meeting that in order for a plan to qualify as formal training under 48-162.01(3)(e), the plan would need to identify a specified career field. Under such an interpretation, traditional ESL, GED, ABE, or basic computer plans would no longer be administratively approved since they do not identify a specified career field. However, such training could be considered as a supportive service in either a job placement plan or a formal training plan, as applicable in the particular case. Any such job placement plan would have to identify a specified job goal or goals, as is presently the case, and any such formal training plan would have to identify a specified career field.

After extensive discussion there was a consensus in support of this approach, and an agreement that this would substantially advance the goal of focusing vocational rehabilitation plans more directly on return to work.

As a result of the above discussions, it was decided that the Vocational Rehabilitation Section of the court will no longer administratively review or approve traditional ESL, GED, ABE, or similar plans in new cases, given that they do not identify a specified career field. Instead, counselors should consider a job placement or formal training plan, as applicable, with ESL, GED, ABE, etc., as a supportive service. Once again, any such job placement plan would have to identify a specified job goal or goals, and any such formal training plan would have to identify a specified career field. For cases in which there has been a previous ESL, GED, ABE or similar plan, the Vocational Rehabilitation Section will consider requests for a follow-up plan of the same type on a case by case basis. However, even in such cases counselors are encouraged to consider a job placement or formal training plan, as applicable, with ESL, GED, ABE, etc., as a supportive service. If a follow-up plan of the same type is requested, counselors will be asked to justify why such a plan is preferable over an alternative job placement or formal training plan with supportive services.

It is understood that there will necessarily be a transition period in implementing this new approach, and patience and flexibility will be required from both the counselors and court specialists. Counselors are encouraged to contact the Vocational Rehabilitation Section with any questions.

In arriving at the decision to adopt the above new approach to supportive services and plan types a number of questions and issues were raised and addressed as follows:

Q: What justification will be required for a plan with supportive services?

A: This question was addressed at the October 22, 2010 meeting in the context of ELL services. As noted in the outcomes memorandum from that meeting, the overall goal of the new approach is to allow flexibility for the counselor in structuring such a plan, while also providing sufficient information and justification to allow the specialists to be comfortable in signing off on the plan. This will necessarily involve striking a balance, and the requirements will evolve as new plans are considered and new circumstances are encountered.

Nevertheless, minimum requirements for ELL as a supportive service were addressed in the outcomes memorandum from the October 22, 2010 meeting, and it was recognized at this meeting that these are also applicable to supportive services in general. Restated more broadly, a plan with supportive services must at a minimum describe (1) why the supportive service is needed to return the employee to work, (2) the nature of the supportive service being proposed, and (3) how the supportive service being proposed will either (a) allow the employee to perform the jobs identified in the plan, in case of a job placement plan, or (b) allow the employee to successfully complete the training for the specified career field, in the

case of a formal training plan. If a tutor is to be used, the plan must describe what the tutor will be doing, and how this will assist the employee to perform the identified jobs or satisfactorily complete the training for the specified career field.

Q: Should there be a fixed time frame for a job placement plan with supportive services? If so what should the time frame be?

A: It was decided at the October 22, 2010 meeting that a job placement plan with ELL as a supportive service should not exceed one year, but may be written for less time. At this meeting it was decided that a job placement plan with GED as a supportive service should not exceed two years, but, again, may be written for less time. In any event, a plan will terminate when the employee returns to work. A fixed time frame was not established for plans with other types of supportive services, but this may be considered at a later date.

The above decisions were based on considerations as to whether there should be a fixed and standard time frame for plans with supportive services, or if the time frame should instead be left open and flexible. A fixed time frame was thought to be preferable in that it would build in accountability by providing an incentive for the employee to complete the plan within the time allotted, and by establishing a point in time for reconsidering the status of the case. However, while there may be a time limit for an individual plan, it was also recognized that a follow-up plan may be justified given the circumstances of the particular case.

Q: Does a job placement plan with ELL or GED as a supportive service necessarily contemplate a period of ELL or completion of a GED before job placement begins?

A. No. It will be up to the counselor to decide based on the circumstances of the individual case when it is appropriate to conduct job search activities. However, it was also recognized that there may be a period of time during a job placement plan when the employee is engaged in ELL training or GED studies and no job placement activities are taking place. Again, this will be at the discretion of the counselor based on his or her judgment regarding the circumstances of the individual case.

Q: In addition to ELL, GED, ABE, and basic computer training, are there other types of services that may be allowed as a supportive service?

A. Other types of supportive services may be appropriate depending on the case. For example, it was recognized that volunteer work can be a valuable tool in returning the employee to employment, and the court has approved reimbursement for mileage expenses for such volunteer work.

Q: Is there a limit on the number or types of supportive services that can be included in one plan?

A. No. However, in practice a plan which requires multiple supportive services in order to

be successful may be more difficult to justify.

Q: How should plans with supportive services be indicated on the current VR 44, Vocational Rehabilitation Plan form?

A: Revisions to the VR 44 plan form and instructions will be drafted and circulated for comment as soon as possible. In the meantime, should the need arise to submit a plan with supportive services the counselor should continue to indicate the plan type in box 5 of the form and note the supportive services in the “other” section of that box.

2. **Next meeting agenda items.** At the next meeting on April 22, 2011 the following will be addressed as time permits:

a. **VR Plan Form Revisions:** Discussion of changes to the plan form and instructions to reflect recent decisions regarding supportive services and plan types.

b. **General Issues:** Discussion of any other issues of concern to the counselors or court specialists.

3. **Future meeting agenda items.** Suggestions for future meeting agenda items are welcome.

a. **Case Closure Form:** Is the data currently collected on the case closure form sufficient, and if not what additional information is needed? In particular, is the data currently collected sufficient to monitor the results of recent decisions regarding supportive services and plan types?