

# Memorandum

**TO:** Vocational Rehabilitation Counselors  
**CC:** Vocational Rehabilitation Specialists, Kris Peterson  
**FROM:** Glenn Morton  
**DATE:** July 14, 2004  
**SUBJECT:** Meeting Announcement & Results of June 25, 2004 Meeting

The next informal meeting between court staff and certified vocational rehabilitation counselors is scheduled for Friday, July 30, 2004, at 2:00 pm. The meeting will be held in the conference room of the court's offices at 525 South 13<sup>th</sup> street in Lincoln. This will be the last meeting at that location, as the court's administrative staff is relocating to new facilities at 1221 "N" Street in Lincoln (TierOne Center) effective August 16, 2004. The August meeting (August 27, 2004) will be held at that location. Come and check out our new facilities!

The following are the results of the discussions at the June 25, 2004 meeting.

1. Previous meeting outcomes. The memorandum from Glenn Morton dated June 10, 2004 documenting the outcome of the meeting on May 21, 2004 was raised for discussion.

a. Grade transcripts and class schedules. At the request of court staff there was additional discussion regarding grade transcripts and class schedules. The court's specialists expressed concern that the procedures discussed during the January 16, 2004 meeting (see the outcomes memorandum from Kris Peterson dated February 10, 2004) are not working. Those procedures provide, in part, that if grades and/or schedules are not received by the date due the specialist will call the counselor the day before the authorization is scheduled to be cancelled. While compliance was relatively good during February and March, the specialists indicate that this has dropped off significantly in recent months. The court specialists reported that for the summer term calls were required on 70-80 cases. As a result, the specialists have proposed the use of a new form, which was circulated and discussed at the meeting. A copy of the proposed form is attached.

As a result of the discussions there was a general agreement that a counselor must have this information in order to properly do his or her job, and that the counselor should be the point person to collect this information and report it to the court. However, the court will also continue to accept the information from the employee. While the court staff recommends use of the form, it was decided that use of the form will be voluntary, although all of the information shown on the form must be submitted regardless of the format of the report or document used. The court specialists will also continue to make calls the day before the authorization is scheduled to be cancelled, consistent with the procedures agreed to in January, but it was also agreed that further steps will be taken should there be a continuing failure by a counselor to insure that the required information is submitted in a timely manner. A question was raised as to what those steps will be,

and this will be discussed further at the next meeting.

b. NWCC ethical standards. There was discussion of the final draft of the revised NWCC ethical standards as circulated with the outcome memorandum from the May 21, 2004 meeting. That memorandum requested that any further comments regarding the final draft be submitted to Glenn Morton before the June 25, 2004 meeting, but no such comments were received. There was a unanimous recommendation that the final draft be approved by the court, and that the revised standards be sent to all certified counselors with an acknowledgement form that must be signed by the counselor and returned to the court. Consistent with this recommendation, the revised ethical standards and responsibilities as shown on the attached will now be considered the ethical standards and responsibilities established by the court for all vocational rehabilitation service providers certified pursuant to the Nebraska Workers' Compensation Act. Also as recommended, these revised standards will be circulated to all certified counselors and job placement specialists together with the required acknowledgment form.

A question was raised as to what the steps will be for determining a violation of the new ethical standards, and what role, if any, the CRCC Ethics Committee may play in considering possible violations of the CRCC Code of Professional Ethics. This will be given further consideration at the next meeting.

2. ESL - classwork vs. tutoring. There was a consensus that "tutoring" means individual one-on-one instruction, and that tutoring should not be the only component of a plan. Rather, tutoring is intended to supplement ESL classes. Regarding the appropriate number of hours of class work versus tutoring, there was a consensus that this must be a case by case decision.

3. Labor market information. It was agreed that sufficient information must be submitted to the specialist to establish (1) that the proposed job is available in the community and the projected outlook for that job, (2) that the employee meets the minimum qualifications for the job, in the case of job placement, or will meet the minimum qualifications after successful completion of training, (3) that the employee will be able to earn a wage comparable to what he or she was earning at the time of the injury, and (4) that the job is consistent with the employee's restrictions. The labor market resources that were used to determine the job's availability must also be identified. The specialists are and will remain flexible as to what information will satisfy these requirements. A labor market survey (i.e., contacts with employers and documentation of each contact) is not required in every case, but may be necessary in individual cases.

4. Future agenda items. The following topics will be addressed at future meetings, beginning with the next meeting on July 30, 2004.

a. Previous meeting outcomes. Review the "outcomes" memorandum from the previous meeting for corrections, deletions, or additions.

b. List Serve notices. It was suggested during the meeting on June 25, 2004 that perhaps the court could send out a "list serve" type notice reminding counselors before grade

transcripts and class schedules are due. However, it was also recognized that this could be difficult or burdensome since there is no uniformity as to class terms among schools. Is such a notice feasible with regard to due dates for grade transcripts and class schedules? If so, would it be useful?

c. Procedural steps. What steps will be taken should there be a continuing failure by a counselor to insure that the required grade transcripts and class schedules are submitted to the court in a timely manner? What will be the steps for determining a violation of the new ethical standards, and what role, if any, will the CRCC Ethics Committee play in considering possible violations of the CRCC Code of Professional Ethics? What are reasonable due process steps for addressing other alleged violations of a statute, rule, or procedural requirement?

d. Transferable skills. Initial discussion began on this topic at the June 25, 2004 meeting, but no substantive decisions were reached.

e. Reporting to the court. What type of reporting to the court is appropriate on a regular basis? Rule 37,B addresses monthly reports, Rule 37,C addresses class schedules, grade transcripts, and training progress reports, Rule 37,D addresses notice to the court if an employee fails to make satisfactory progress or discontinues participating in an approved plan, and Rule 37,E addresses notification to the court upon termination of services or case closure. Are there questions regarding the current requirements for these reports and are changes needed? What type of reporting or updating is it appropriate for the court's specialists to request in monitoring a plan?

f. Job goals for ESL/GED/ABE. The court's current policy for ESL and GED is that vocational goals are not mandatory since the focus is on general employability, and that if ESL or GED is a first step in formal retraining the counselor may submit one consolidated plan or two separate plans at the same time. The court's current position for ABE or remedial programs is that they may be a component of a retraining plan but do not constitute retraining in and of themselves. Should the policies for ESL, GED, and ABE be the same and why or why not? Is the court's current policy regarding ESL and GED consistent with statute section 48-162.01(3)(e) and Rules 44,B,3,e and 44,C?

g. Services outside a plan. Under what circumstances, if any, is it appropriate for a counselor to provide vocational rehabilitation services outside the context of an approved plan? If it is appropriate, what are the notice and reporting requirements? Rule 36,B provides that all voluntary vocational rehabilitation plans must have prior approval of the court's vocational rehabilitation specialists. Is this a question of what services are and are not part of a vocational rehabilitation plan? If so, what services are and are not in fact part of a plan? Is it acceptable for a counselor to provide job placement services before or after the date of an approved plan?

h. Counselor/job placement specialist certification process.