

# Memorandum

**TO:** Vocational Rehabilitation Counselors and Job Placement Specialists  
**CC:** Vocational Rehabilitation Specialists, Kris Peterson  
**FROM:** Glenn Morton  
**DATE:** January 12, 2009  
**SUBJECT:** Meeting Announcement & Results of October 23, 2009 Meeting

The next informal meeting between court staff and certified vocational rehabilitation service providers is scheduled for Friday, January 22, 2010, at 2:00 pm. The meeting will be held at the court's administrative offices at 1221 "N" Street, Suite 402, in Lincoln (TierOne Center). Meetings are held on a quarterly basis, with future meetings tentatively scheduled for April 30, 2010, July 30, 2010, and October 22, 2010. However, the April 30, 2010 meeting will need to be rescheduled due to the Arbor Day holiday.

The following are the results from the October 23, 2009 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. Future Meeting Schedule:** Future quarterly meetings were tentatively set for April 30, 2010, July 30, 2010, and October 22, 2010. However, the April 30, 2010 meeting will need to be rescheduled due to the Arbor Day holiday.
- 2. Informal Dispute Resolution:** It was announced that statute section 48-168 was amended as part of LB 630 from the last legislative session to specifically allow certified vocational rehabilitation counselors to request informal dispute resolution. This became effective May 27, 2009. NWCC Court Rule 48 was also amended accordingly, effective December 15, 2009. It had previously been the court's practice to allow counselors to request and participate in informal dispute resolution, but this was not specifically permitted by statute or court rule.
- 3. ESL Classes:** The court has made a further attempt to contact the Department of Education regarding improving the availability of ESL classes. The Department indicated in their last communication that changes have been made in their program, and that they were looking forward to meeting again about how the court could contribute to making ESL instruction more available. However, the Department has not responded to the court's communication in August suggesting proposed meeting dates. The court staff will follow up once again.
- 4. LOE Training & Fact Sheet:** A revised draft of the court "fact sheet" on LOE evaluations was reviewed at this meeting and additional changes were recommended. A further revised draft incorporating those changes is attached, and was also circulated to all certified counselors on November 6, 2009 for comments and suggestions. Any such comments or suggestions will be considered at the next meeting on January 22, 2010.

**5. Work Opportunity Tax Credit (WOTC) Program:** There was a further report regarding whether tax credits are available under the WOTC program for employers hiring disabled workers in workers' compensation cases. While it appears such credits were previously available, the relevant language in the WOTC program which allowed this has now been changed. Currently, such credits would likely be available to workers' compensation clients only in limited and restricted circumstances. For further information contact Joyce Van Patten.

**6. Verification of Lawful Presence in the United States:** There was a discussion regarding LB 403 from the last legislative session which became operative on October 1, 2009. This bill prohibits state agencies from providing public benefits to individuals not lawfully present in the United States. Applicants are also required to complete an attestation form indicating that the applicant is either a citizen of the United States or a qualified alien under federal law. If the applicant indicates that he or she is a qualified alien, the agency must then verify lawful presence in the United States using the federal SAVE (Systematic Alien Verification for Entitlements) Program.

An email regarding LB 403 was sent to all certified counselors on October 8, 2009, along with notice that the attached United States Citizenship Attestation Form must be completed, signed by the injured worker, and forwarded to the court's vocational rehabilitation section for any vocational rehabilitation plan signed by the worker on or after October 1, 2009. The form is also available on the court's web site. The court staff will verify the applicant's eligibility for payments from the Workers' Compensation Trust fund based on the attestation.

In response to questions at the meeting, a number of clarifying points and decisions were made as follows:

- a. The attestation form will be made available in Spanish.
- b. The attestation form is required before a plan can be approved. However, the court will accept the form prior to submission of a plan. For example, the counselor could choose to have the client complete the form at the initial interview, and forward it to the court at that time.
- c. The court will accept either the original or a fax copy of the form. If the form is submitted by fax, the original of the form need not be submitted.
- d. The court staff will notify the counselor of the outcome of any verification through the SAVE program, whether positive or negative.
- e. If a verification through the SAVE program is negative, the court staff will request the supporting documentation and provide it to the counselor and client.
- f. It is unclear at this time if the SAVE program itself allows for any sort of "appeal" of a negative search result or correction of a "false negative." However, in deciding whether a plan can be approved, the court staff will accept and consider other evidence indicating lawful presence and ability to work in the United States.
- g. In the event of a negative result, the court will allow the counselor and client an opportunity to provide contrary evidence before notifying other parties.

For further questions please contact the court's vocational rehabilitation section.

**7. Grades and Class Schedules:** There was continuing discussion regarding the policy on reporting of grades and class schedules. The court's specialists indicated that compliance with the policy has remained an issue, and that clarification was needed regarding the specific information required. The specialists also recommended discontinuance of the phone call from the court staff to the counselor on the date the documents were due, given that this has been time consuming for the specialists and has served little practical purpose.

The staff recommendations were agreed to by those in attendance, and the policy has now been revised accordingly as reflected in the attached copy. This revised policy was circulated to all certified counselors on November 6, 2009, and became effective on that date. The Student Information and Instructions document has also been amended consistent with the revised policy, and the attached document is now being sent out with notice of approved plans.

It was also noted at the meeting that the Plan of Study spreadsheet template is being used successfully by a number of counselors, and has made tracking of progress and changes much easier for both the counselor and court staff. Use of this template is voluntary, but other counselors are encouraged to see if this will work for them.

**8. Next meeting agenda items.** At the next meeting on January 22, 2010 we will address the following as time permits:

- a. Meeting Schedule: Reschedule of April 30, 2010 meeting.
- b. LOE Fact Sheet: Review of comments or suggestions (if any) regarding latest draft of the court "fact sheet" on LOE evaluations. Follow up on previous discussions regarding possible collaboration between the court staff and counselors on LOE evaluation training.
- c. ESL Classes: A further report on the status of the court's interaction with the Department of Education on possible collaboration to expand access to ESL classes.
- d. General Issues: Discussion of any other issues of ongoing concern to the counselors or court specialists.

**9. Future meeting agenda items.** The following topics will likely be addressed at future meetings. Any suggestions for additional agenda items are welcome.

- a. Case Closure Form: Continuing discussion of possible changes to the form, including a number of suggestions made at the meeting on July 25, 2008. The court staff will prepare a draft of a revised form for consideration at a future meeting.