

K.S.A. 44-1136 to 44-1138
Kansas Employment First Initiative Act

Annual Report to the
Governor
and
Kansas Legislature



Submitted By:
Kansas Employment First Oversight Commission
December 31, 2012

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Executive Summary

The Kansas Employment First Oversight Commission was created by the state law requiring competitive and integrated employment to be the first option when serving people with disabilities (KSA 44-1136 to 44-1138, also called the Employment First Initiative Act). The Oversight Commission is charged with carrying out certain duties, including reporting in detail on the measurable progress of state agencies toward the Goals and Objectives it has established for them, as well as reporting the overall progress of the Act's full implementation. Additionally, the Oversight Commission must identify barriers and strategies that can help realize the Goals and Objectives of the Employment First Initiative.

The Employment First Oversight Commission put in considerable work during 2012, including conducting 12 public meetings, updating its 2012 draft report based on stakeholder and state agency feedback, reaching out and communicating to stakeholders, as well as educating state agencies about the law and how to best report data and information to the Oversight Commission. State agencies have certain duties to assist the Oversight Commission and implement the law. These include: 1) carrying out the state requirement that competitive and integrated employment shall be the first option when serving persons with disabilities of working age (16-64), 2) ensuring that this requirement is effectively implemented in all of the agency's programs and services, 3) ensuring that all programs, policies, procedures and funding support competitive and integrated employment of individuals with disabilities, 4) sharing data across systems whenever feasible, 5) providing data and information to the Oversight Commission, and 6) cooperating with the Commission on the creation and dissemination of this annual report.

Some important progress has been made regarding Employment First and the Goals and Objectives that state agencies are to implement. Of the 16 Objectives established for 2012, three of the Objectives have been "met," six are "partially met," and seven are "not met." In general, when an Objective was either "not met" or only "partially met," it was typically because state agencies did not provide the Commission with data or information detailing whether the Objective was met, information was provided but the activity or effort was not sufficient to meet the standard, or some combination of the two. There have been many successful examples of important and meaningful progress towards full and effective implementation of the Employment First law (e.g., \$500,000 legislative appropriation for Department of Commerce Employer Incentive Program, House Bill 2453 which provides an incentive for some state contractors that hire certain people with disabilities, KDHE's two KanCare Employment Pilot Projects, and other initiatives as noted in this report).

However, even with this progress, 18 months after its enactment, more work remains to ensure that the Act has been fully and consistently implemented across all programs and state agencies. Evidence suggests there is increased momentum and leadership both in Kansas and nationally as multiple events converge to promote a vision and culture that embraces employment for people with disabilities. As the Commission and state agencies have worked to fulfill the requirements of the law, numerous challenges have been noted, primarily related to logistics, knowledge, dissemination, practice, and measurement. Strategies have been identified to address these barriers and guide the establishment of Goals and Objectives for 2013. Proposed activities for the Commission to accomplish its 2013 Goals and Objectives and address these barriers include conducting additional oversight meetings, providing technical assistance, supporting state agency liaison work, compiling baseline data, engaging stakeholders, participating in strategic planning, reporting updates, and promoting leadership.

Kansas was the first state in the nation to pass an Employment First requirement into law. Kansas policymakers should rightfully take pride in this achievement, which should fuel our collective desire to fully and effectively implement the Employment First law consistently across all agencies. Additionally, Employment First is gaining impetus nationally, with 34 states now having some type of Employment First activity, and 20 of those states establishing Employment First as official policy and 14 reporting other initiatives and efforts. Kansas can build upon its success and the momentum of these national efforts by rededicating itself to ensure full and effective implementation of this important law.

I. Introduction, History and Overview

The Kansas Employment First Oversight Commission is part of the Employment First Initiative Act (HB 2336) which became law on July 1, 2011 (a copy of the law, KSA 44-1136 to 44-1138 is located in Appendix A). As of the publication of this report, the law has been in effect for a period of 18 months. The purpose of Employment First is to increase the number of Kansas residents with disabilities who are employed in competitive and integrated settings.

The five appointed Commissioners are volunteers who donate their time, energy, and talents toward the Employment First Initiative outlined in House Bill 2336. Although there is a stipulation in the law that provides expense reimbursement to Commissioners, most of the Commissioners have made the decision not to request such reimbursement from the state. Only \$265.06 was requested by Commissioners to cover costs associated with travel to the 12 Commission meetings in 2012.

The Employment First Oversight Commissioners are:

Honorable Dan Kerschen, Garden Plain (Rep. and Senator-elect)
Barney Mayse, Overland Park
Rocky Nichols, Topeka
Wendy Parent-Johnson, Ph.D., Lawrence
Ron Pasmore, Wichita

Charge and Responsibilities of Oversight Commission

The Commission has specific charges as defined by the law. Their key responsibilities and the corresponding statute are as follows:

Establish Goals and Objectives for State Agencies - *"The commission shall establish measurable goals and objectives for the state of Kansas to ensure implementation of this act."*
- KSA 44-1138(d)

Track Measurable Progress - *"The commission shall track the measurable progress of public agencies in implementing this act."* - KSA 44-1138(d)

Oversight and Annual Report to Detail Progress Toward both the Goals and Objectives established for State Agencies and Implementation of the Law - *"The commission shall issue an annual report on or before January 1 each year which shall be presented to the governor and members of the state legislature. The report shall detail progress toward the goals and objectives and full implementation of this act."* - KSA 44-1138(e)

Identify Barriers and Strategies - *"The report also shall identify barriers to achieving the outcomes along with the effective strategies and policies that can help realize the employment first initiative."* - KSA 44-1138(e)

II. Review of Commission Activities

The Employment First Oversight Commission put in considerable work during 2012, focusing on its responsibilities to achieve the Goals and Objectives as established by this legislation. A summary of these activities are highlighted below.

- Conducted 12 public meetings.

- Updated and finalized the 2012 Employment First Goals and Objectives in its annual report based on stakeholder and agency liaison feedback.
- Developed a document identifying barriers, effective strategies and policies regarding Employment First.
- Worked with state agencies to determine relevant state agency status and identify a liaison representative to work with the Commission.
- Summarized Goals and Objectives document to clarify the five key Objectives that applied to state agencies.
- Maintained a current website of Employment First activities, resources, communications, and announcements.
- Sent follow up letter to Employment First Liaisons in July to ensure they understood the data and information that was needed regarding the Goals and Objectives established pursuant to state law.
- Communicated by email with 681 disability stakeholders 20 times totaling 13,620 total communications.
- Provided 19 individualized technical assistance contacts with designated state agency liaisons.
- Participated in a meeting of the Employment First Work Group to discuss expansion of engagement with other stakeholders and the importance of effective communication between the Commission and the work group.
- Participated in a meeting of the Governor's Mental Health Work Group and provided information about the Employment First Oversight Commission.
- Conducted a public forum with over 300 attendees at the Employment First Summit.
- Created a worksheet to assist state agencies in reporting their progress with implementing the Employment First Act.
- Encouraged a meeting of the state agency liaisons in December with plans for continuation of these meetings in 2013.
- Disseminated information about Employment First in Kansas at 20 state and national presentations provided by Commissioners (see Appendix B).
- Worked with designated department liaisons in an ongoing effort to clarify and engage each relevant agency in the process of meeting the requirements of the bill. These efforts included emails, face to face meetings, letters and phone calls.

III. Progress Toward Implementation of the Law

Duties of State Agencies

In order to ensure the Oversight Commission can effectively carry out its duties, the law places certain requirements on state agencies to help ensure that the law will be effectively and fully implemented. The law also places requirements on state agencies to provide the Commission information documenting measurable progress on the Goals and Objectives established by the Commission and proving effective implementation of the law. These requirements of state agencies and corresponding statutes include:

Competitive and Integrated Employment Shall be the First Option - "It is hereby declared to be the policy of the State of Kansas that competitive and integrated employment shall be considered its first option when serving persons with disabilities who are of working age to obtain employment." – KSA 44-1136(b)

State Agencies Must Follow Employment First Policy and Ensure it is Implemented in Programs and Services - *"All state agencies shall follow this policy and ensure that it is effectively implemented in their programs and services."* – KSA 44-1136(b)

State Agency Programs, Policies, Procedures and Funding Must All Support Competitive and Integrated Employment - *"All state agencies shall coordinate efforts and shall collaborate within and among such agencies to ensure that state programs, policies, procedures and funding support competitive and integrated employment of individuals with disabilities."* – KSA 44-1137(a)

State Agencies Share Data Across Systems - *"All state agencies shall, whenever feasible, share data and information across systems in order to track progress toward full implementation of the act."* – KSA 44-1137(a)

State Agencies Adopt Rules and Regulations - *"State agencies are authorized to adopt rules and regulations to implement this act."* – KSA 44-1137(b)

State Agencies Provide Data and Information to Commission - *"All state agencies shall fully cooperate with and provide data and information to assist the commission in carrying out its duties."* – KSA 44-1138(d)

State Agencies Cooperate on the Report - *"All state agencies shall cooperate with the commission on the creation and dissemination of the annual report."* – KSA 44-1138(e) (note: per the other requirements of the law, the report must detail the progress toward both the goals and objectives and full implementation of the act. Therefore, state agencies need to provide to the commission data and information that clearly details the progress on the goals and objectives as well as the full implementation of the act, pursuant to subsection d. Also, pursuant to subsection e, they must cooperate on the creation of the report.).

Designated State Agencies

Although the Employment First law requires all state agencies to implement its requirements, the Oversight Commission has identified a handful of state agencies that have programs and activities directly impacted by Employment First. These are referred to as "relevant state agencies" throughout this document. The relevant state agencies are:

- *Kansas Department for Children and Families (KDCF – formerly Kansas Dept. of Social and Rehabilitation Services)*
- *Kansas Department for Aging and Disability Services (KDADS – formerly Kansas Dept. on Aging)*
- *Kansas Department of Health and Environment (KDHE)*
- *Kansas Department of Commerce (Commerce)*
- *Kansas State Department of Education (KSDE)*
- *Kansas Department on Administration (KDOA)*

Progress to Date

State law requires the Employment First Oversight Commission to report in detail the progress toward the Goals and Objectives established by the Commission for state agencies. Pursuant to state law, one of the inherent requirements of these Goals and Objectives is that the state agencies must justify and prove "full implementation of this (the Employment First Initiative) Act." The measurable progress

on Goals and Objectives are critical to measuring and justifying whether the Act has been fully implemented.

Some important progress has been made regarding Employment First and the Goals and Objectives established pursuant to state law that state agencies are to implement. Of the 16 Objectives established for 2012, three of the Objectives have been "met," six are "partially met" and seven are "not met." In general, when an objective was either "not met" or only "partially met," it is typically because state agencies did not provide the Commission with information or data, information was provided but the activity or effort was not sufficient to meet the standard, or some combination of the two.

This report provides many successful examples of meaningful progress towards full implementation of the Employment First law. However even with this progress, 18 months after its enactment, the Commission cannot report with complete confidence that the Act is fully implemented consistently and equally across all programs and agencies. Part of this is to be expected due to the natural challenge of implementing policy consistently and effectively across multiple agencies and programs. Also, if the Commission had received more comprehensive data and information from all the relevant state agencies, then perhaps more progress could have been measured. The underlying promise of the Employment First law is two-fold, that: 1) competitive and integrated employment is always ensured as the first option for a person with a disability with any state program or service and that 2) all "state programs, policies, procedures and funding support competitive and integrated employment", as per the law. The future for the promise of Employment First remains bright. However, more must be done to ensure this promise is fully realized consistently across agencies and programs.

IV. Barriers and Strategies

The 2012 report identified multiple barriers and strategies related to implementation of Employment First legislation. As the Commission and state agencies worked to fulfill the requirements of the law, several additional challenges were noted (see Barriers and Strategies, Appendix L). These are primarily focused on logistics (e.g., appointment of state agency liaisons, confusion over state agency roles), knowledge (e.g., emphasis only on specific disability groups, reliance on status quo), dissemination (e.g., not all stakeholders receiving information), practice (e.g., lack of effective employment services), and measurement (e.g., lack of data and information). Examples of proposed strategies for addressing barriers include: establishing a qualified workforce; conducting outreach, dissemination, education, and peer mentoring; developing tools and networking opportunities; providing information and resources; and establishing a consistent system for reporting outcomes.

V. Leadership and Synergy

State

Kansas was the first state in the U.S. to pass Employment First requirements into law, and, since then, many other states have turned to Kansas for both inspiration and technical assistance. Kansas has established itself as a leader among its peers in this regard.

Within Kansas, there are multiple initiatives that will also positively impact competitive and integrated employment for persons with disabilities. Two communities have engaged the Great Expectations Initiative, a systems change project funded by Kansas Rehabilitation Services. A number of communities have implemented a school-to-work transition program, Project Search, funded through the Kansas Council on Developmental Disabilities. The Department of Commerce promoted the

development of Business Leadership Networks, business to business organizations that focus on teaching employers how to successfully employ persons with disabilities. Employment has been identified as one of the outcomes to be improved through the Medicaid reorganization of KanCare. Governor Sam Brownback has announced new pilot projects under KanCare to focus on employment of people with disabilities. Another pilot project is under development to incentivize employment outcomes for persons on the waiting lists for waiver services. Finally, Governor Brownback promoted and signed into law a new program to incentivize certified state contractors to hire certain persons with severe disabilities.

We are hopeful this growing momentum in Kansas will result in competitive and integrated employment as the norm for persons with disabilities. Although much work remains to be done, the sum of these initiatives is creating a synergy for change in our expectations for persons with disabilities.

National

Employment First is gaining increased momentum at a national level, contributing to a new collective vision of employment for individuals with disabilities. To date, 34 states have some type of Employment First activity, with 20 of those states identified as having an official policy and 14 reporting other initiatives and efforts (e.g., summits, conferences, products, technical assistance centers, white papers). Of the 20 with an official policy, seven states have passed legislation (CA, DE, KS, PA, UT, VA, WA) and 13 (AK, CO, CN, LA, ME, MD, MA, MO, NJ, OH, OK, OR, TN) have a policy directive, Executive Order, or similar policy statement.

Multiple major events at the national level are occurring which align with the same agenda of increased employment for individuals with disabilities.

- The Alliance for Full Participation established a goal of doubling employment outcomes by the year 2015. Their work with state teams on Employment First is now under the leadership of APSE (the Association for Persons Supporting Employment First), entitled Employment First Now; an initiative to mobilize grassroots efforts through resource dissemination, technical assistance, data collection and measurement.
- Employment of people with disabilities has been established as a national priority by the Senate HELP (Health, Education, Labor and Pensions) Committee, who has also set a goal to increase employment of people with disabilities from under five million to 6 million by the year 2015.
- The U.S. Department of Labor is proposing a new rule that would require federal contractors and subcontractors to set a hiring goal of having 7 percent of their workforces be people with disabilities.
- Similarly, President Obama has signed an Executive Order stating that 100,000 people with disabilities will be in the Federal workforce by 2015.
- Governor Jack Markell of Delaware, who is the new Chair of the National Governor's Association, has announced a national initiative to increase employment for people with disabilities. Interestingly, Delaware recently passed employment first legislation that was developed with assistance from Kansas. The new Delaware law was modeled after the Kansas law, which was the first state in the U.S. to have an Employment First law.

Additionally, the U.S. Department of Justice (DOJ) has actively pursued investigations of compliance with the Americans with Disabilities Act (ADA) across the nation. Several states have received findings from these investigations of violations of the ADA because they have not provided services for persons with disabilities in the most integrated setting appropriate to their disabilities. DOJ has taken the position that this so-called "most integrated setting" mandate applies to employment

settings, such as segregated settings where people with disabilities are not in competitive or integrated employment. An increase in the provision of services that lead to competitive employment in integrated settings has been recommended by the U.S. DOJ in these cases.

VI. Recommendations and Plans for 2013

In order to continue the momentum and achieve the full intent of the law, the Commission has established the 2013 Goals and Objectives for state agencies (see Appendix K). The activities planned by the Commission to accomplish these are as follows:

- Conduct multiple public meetings in 2013.
- Provide one-on-one technical assistance to agency liaisons.
- Support the liaison networking work group.
- Compile baseline data to measure overall impact.
- Get the word out about Employment First progress and engage stakeholders through a variety of additional mechanisms.
- Participate in strategic planning to begin addressing implementation issues associated with Employment First.
- Report updates on progress with Goals and Objectives.
- Promote state and national leadership.