NEVADA STATE REHABILITATION COUNCIL (N.S.R.C.)
MEETING MINUTES
November 9, 2021

Rehabilitation Administration
751 Basque Way, Carson City, NV 89706
&
Vocational Rehabilitation
3016 West Charleston Blvd., Las Vegas, NV 89102

COUNCIL MEMBERS PRESENT:
   David Nuestro
   Judith Swain
   Mary Brabant
   Marshal Hernandez
   Alex Goff

COUNCIL MEMBERS ABSENT:
   Raquel O’Neill
   Rebecca Rogers

GUESTS/PUBLIC:
   Jack Mayes, Nevada Disability and Law Center
   Wendy Thornley, Nevada State Independent Living Council
   Robin Kincaid, NVPEP
   Steven Cohen, member of the public
   Dora Martinez, member of the public

DIVISION STAFF:
   Harry Ward, Deputy Attorney General
   Drazen Elez, VR Administrator
   Javier Fernandez, VR Liaison to N.S.R.C.
   Mechelle Merrill, VR, Deputy Administrator of Programs
   Rosa Mendez, DETR, Public Information Officer
   Sheena Childers, VR Bureau Chief
   Trina Bourke, VR Southern District Manager

1. CALL TO ORDER, INTRODUCTIONS, AND VERIFY TIMELY POSTING OF AGENDA
   David Nuestro, Vice-Chair called the meeting to order at 9:11 a.m. Javier Fernandez NSRC Liaison called the roll.

   Mr. Fernandez determined a quorum was present and verified that the posting was completed on time in accordance with Open Meeting Law.

2. FIRST PUBLIC COMMENT
   David Nuestro called for public comment. Dora Martinez asked for an agenda item to evaluate VR’s website regarding ADA accessibility and overlay. She has tried a cell phone, iPad, laptop and it’s hard to navigate the website.

   Steven Cohen emailed his public comment attached to these minutes.

3. APPROVAL OF THE SEPTEMBER 14, 2021 MEETING MINUTES
   Mr. Nuestro asked the council for any modifications, changes or corrections to the September 14, 2021 Meeting Minutes. Alex Goff indicated a correction on page 1 the first sentence of first paragraph changing the word “role” to “roll”.

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Alex Goff made a motion to approve with the correction mentioned. Judy Swain seconded. All in favor, none-opposed, none-abstained, motion carried.

4. **NSRC ANNUAL REPORT FINAL DRAFT**
   Rosa Mendez, DETR-Public Information Officer reviewed the 2021 NSRC Annual Report. The following changes where suggested by the council:

   Final Administrator letter was pending submission. There were two outstanding council members images pending, Alison Stephens and Marshal Hernandez. Pending the final data for the Fact Sheet and the State Map. Page 30, there is a blue line to be removed where it says, “Northern Nevada.” A revised cover photo is pending. Page 29, the fact sheet Federal Fiscal Year should be 2021. Footer section of all pages should be 2021. A redesign of the fact sheet is forth coming.

5. **REVIEW OF THE VOCATIONAL REHABILITATION SERVICES PORTION OF THE UNIFIED STATE PLAN DRAFT 2021**
   Drazen Elez, Division Administrator begin his presentation. Thanking all committee members and staff for their input. Emphasizes were made on the goals of NSRC, VR and individual goal’s the plan will meet in the Statewide Plan.

   Mechelle Merrill, Division Deputy Administrator made comments on how the VR Plan reflects the movement towards removing the redundancies in the wording. The Plan is reflective of where we are now without the redundancies.

   Alex Goff made a motion to approve the VR portion of the state plan as made by agency staff, Judy Swain seconded. All in favor, non-opposed, none-abstained, motion carried.

6. **OTHER REPORTS**
   Jack Mayes, Executive Director of the Nevada Disability and Law Center (NDALC) presented info on the Client Assistance Program (CAP). Finalized yearend report which will be shared at the next council meeting. Some highlights from the report include: Non-case services they do information referrals. They are about 50/50 between information about Rehabilitation and Title 1 of the ADA. Due to COVID, training was limited, mostly remote outreach. Regarding case work, the two items that stood out from the past were: communication problems between the individual and VR counselors and conflict about what VR services are to be provided. Communication is constantly open with VR. There have been formal appeal hearings, all issues have been taken care of at a lower level. The number one outcome is reestablishing communications with counselors and clients.

   Wendy Thornley, Nevada State Independent Living Council (SILC) provided a few updates. Sub awards were sent to the SILS for fiscal year 222 to provide scholarships for training to youth initiatives. There is a new accessible reporting option called “Q 90” for the SILC’s council to report to the American Civil Liberties Union (ACLU). Report generated and submitted on November 1, 2021. Hearts of Glass film Presentation and panel discussion at Ben’s village was a success. New community partner Vertical Harvest filmed based on to start model in Las Vegas area. SILC to work with Golden Network TV to produce training videos and a documentary on intendent living to be shared on public channel and podcast network in the near future. RCIL unofficial Part B SILC out of Carson City received a Federal Vaccination Effort Award for vaccination efforts for rural communities for SILC members all around Nevada. Nevada SILC is working with Colorado SILC and the Nevada ADSD to create a formal Independent Living Training for all partners to go over the Person-Centered Care and Medical Models for their programs. The next quarterly meeting is scheduled for January 12th & 13th at 1pm on both days and are open to the public and attendance is welcome.

7. **NSRC ORIENTATION / MEMBERSHIP UPDATE**
Mechelle Merrill, Division Deputy Administrator reviewed the NSRC Orientation.

**Vision Statement**
A skilled and inclusive Nevada workforce.

**Mission Statement**
Actively engaging with Nevada businesses to understand their employment needs; and creating innovative programs that develop the strengths, priorities and talents of individuals with disabilities; ensuring that Nevada works for everyone.

**Why Vocational Rehabilitation Matters?**
2019 Data information indicates there are 327,139 working age Nevadans with disabilities. 78.6% of those without disabilities are Employed compared to 41.1% with disabilities are employed. 58% of working age Nevadans with disabilities are unemployed compared to only 21% of those without. Who we serve: 58% Mental Disabilities, 22% with Sensory and Communication Disabilities and 20% Physical Disabilities have been served. People with disabilities constitute the nation’s largest minority group as well as the ONLY group that any one of us can become a member of at any time. Poverty Rate is higher for people with disabilities at 24% living in poverty. Compared to their peers with 10% living in poverty.

**Locations / Staffing**
We have 13 Locations, most co-located within Job connect Offices, 133 Employees Statewide and 48 Rehabilitation Counselors with Majority holding a master’s degree and are Certified Rehabilitation Counselors.

**Caseload/ Program Costs**
Caseloads vary about 70 cases. Consumers pay nothing for services. We do apply a needs test which mandates financial participation for income exceeding 250% of the poverty level. Counseling and guidance services are free to anyone.

**Eligibility**
The individual must have a physical or mental impairment, diagnosed by qualified medical professional. The impairment results in a substantial impediment to employment. The individual requires VR services to secure employment. The individual can benefit from services and they are able to legally work in the U.S. If receiving Social Security benefits for disability, they are presumptive eligible.

**Process to Receive Services**
Submit online application. Complete Intake. Eligibility determination made within 60 days. Participate in Vocational and other Assessments. Consumer and Counselor discuss employment goal and create plan to achieve it. Individual Plan for Employment (IPE) within 90 days.

**Some Customary Services**

**Workforce Innovation & Opportunity Act (WIOA) and its effect on BVR and BSBVI signed into law July 22, 2014.**
This legislation and its implementing regulations are designed to strengthen and improve the nation’s public workforce development system and help Americans with significant barriers to employment, including
individuals with disabilities into high quality jobs and careers and help employers hire and retain skilled workers.

Ms. Merrill expressed the importance of this law for going into effect. By upscaling the opportunities for the clients to achieve a better employment and career paths. Placed more emphasis on transition age students. WIOA feels children are the further and support them on pretransition years will have better success as adults and services are geared towards that now.

**WIOA Core Programs**
- **Title I (U.S. Department of Labor)** – Workforce Development and One-Stop System
- **Title II (U.S. Department of Education)** – Adult Education and Family Literacy Act program
- **Title III (U.S. Department of Labor)** – Wagner-Peyser Employment Service program
- **Title IV (U.S. Department of Education)** – State Vocational Rehabilitation Services program

**WIOA**

**Definitions**
- Student – Up to age 22; and eligible for or receiving Special Education Services under IDEA, or meeting definition as person with a disability under Rehabilitation Act, Section 504, and participating in or enrolled in educational program
- Youth – Up to age 24
- Competitive Integrated Employment – Minimum wage or higher, and at location where employee interacts with others to the same extent as someone without a disability interacts in the workplace

**Common Performance Measures**
1. % in unsubsidized employment during the 2nd quarter after exit
2. % in unsubsidized employment during the 4th quarter after exit
3. Median earnings during the 22nd quarter after exit
4. % who obtain a recognized postsecondary credential or diploma or equivalent within one year of program exit
5. % that are in an education program that leads to a postsecondary credential and who achieve measurable skill gains
6. Effectiveness in serving employers

**Pre-Employment Transition Services (Pre-ETS)**
- 15% of Section 110 grant funds in reserve
- 5 Required Activities for the provision of Pre-Employment Transition Services
- 9 Authorized Activities

**Pre-Employment Transition Services 5 Required Activities**
Does Not Require an Open Case with VR:
1. Job Exploration Counseling
2. Counseling regarding postsecondary education and training programs
3. Instruction in Self-Advocacy
4. Work-Based Learning Experiences
5. Workplace Readiness training (social skills and independent living skills)

**Sub-Minimum Wage**
1. Requires Youth to apply for VR services; have an IPE; work toward employment for a “reasonable
period of time;” receive Career Counseling, Information & Referral service
2. VR must document these services & provide to consumer
3. VR must provide follow-up information & referrals at intervals of 6 months the first year, and annually thereafter
4. Adults and those already in sub-min. wage jobs - VR must provide info. & referrals annually & maintain records of this

**How is Vocational Rehabilitation Funded?**
State General Fund
BEN Expenditures and Effort
Section 110 Federal Grant
Interagency Transfer and Cost Allocation
Federal Program Income
21.3% Non-Federal Match will get you
78.7% Federal Basic VR Grant

**Federal Funds Reallotted**
In 2020 $6,000,000, $75,000 supported, client and youth. Allotments happens when we do not have enough state funds in Non-Federal to draw in the Federal Funds.

**Return on Investment**
For every $1 invested in VR there is a $2.96 savings for taxpayers over the life of a client.
For every General Fund dollar invested, the State saves $16.73 over the life of a client.

**Partnerships with Nevada Employers**
Ms. Merrill referenced the top five jobs before Pandemic. This list will be updated in the Tear Away sheet in the Annual report. Similar list but in different order due to the Pandemic due to the needs and demands.
1. Sales and Service Workers
2. Stock and Material Movers
3. Clerical / Administrative Support
4. Food Service Workers
5. Health Care / Medical Industry

**Collaborations with Businesses**
1. BVR provides Disability 101 training to employer also Windmill training awareness and etiquette. How non disability employees work with disability employees in work site but not signaling individual out. Set up for success for everyone.
2. BVR funds soft skills instruction General or Specific to employer
3. BVR may fund candidates’ wages during on-the-job training or internships opportunities through 3rd party staffing agency
4. Employer provides work locations in Nevada, and specific job training and expertise

Ms. Merrill added: VR provides guidance on ADA issues with interviewing or hiring process. VR provides ergonomic evaluation. Along with other compliance support for businesses.

**Sephora**

**Training to Employment Program**
Sephora Distribution Center-Las Vegas

Nine-week training program on site:
   a) One week of soft skills and
b) Eight weeks on-the-job training, specific to positions within Sephora’s distribution center

Sephora’s commitment is that 30% of its full-time staff will be people who have a disability

VR funds the Trainer / Instructor position through Capabilities, Health and Human Services

Sephora pays the wages to consumers during the training program.
Model repeated with Starbucks, OfficeMax, Pepsi Cola. Possible new partner with Telsa Battery Factory.
Model we are going to stay with.

A Better Bottom Line
1. VR offers employers access to a large talent pool of qualified individuals with disabilities
2. Cost savings to employers
3. Recruitment and Retention Services
4. Workplace Accessibility
5. Education and Training on Disability Issues
6. Partnerships/apprenticeships/on-the-job training

NSRC Member Responsibilities

Title 34 CFR 361.16 & 361.17
A. Apply and receive appointment by the Governor
   a. Specific representatives, as outlined in CFRs and in Bylaws
   b. Can include other/additional individuals
B. Attend quarterly meetings
C. Volunteer for subcommittees
D. Assist with filling member vacancies
E. Refrain from voting on any matter that would be a conflict of interest
F. Ensure understanding of Nevada’s Open Meeting Law and Robert’s Rules for public meetings
G. Ensure understanding of By-Laws
H. Ensure understanding of Title 34 CFR 361.16 & 361.17
I. Jointly submit an Annual Report
J. Jointly develop and review annually VR’s program goals and priorities, strategies and performance measures for the State Plan submission
K. Assist with reports & Needs Assessment
L. Review and analyze consumer satisfaction (survey instrument)
M. Provide consultation to VR in developing, implementing and revising VR policies & procedures
N. Review VR’s performance related to eligibility; extent, scope & effectiveness of services; and ability of the VR program to accomplish its mission

Rehabilitation has 13 Field offices through Nevada from Elko to Winnemucca, Las Vegas and Reno. We have a strong virtual presence with our on-line application process.

8. OPEN MEETING LAW TRAINING
Mr. Nuestro introduced Harry Ward, Deputy Attorney General who presented the Open Meeting Law Training.

Applicability of the Open Meeting Law
- The Open Meeting Law (OML) applies to meetings of public bodies. NRS 241.016(1).
- A “public body” is “any administrative, advisory, executive or legislative body of a State or a local
government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue” NRS 241.015(4).

NRS Chapter 241
- The OML is found in NRS Chapter 241
- Legislature declared in statute that it is the intent of the law that public bodies take action openly and that their deliberations be conducted openly. NRS 241.010(1).
- “The spirit and policy behind the OML favors open meetings and any exceptions thereto should be strictly construed.”

What is a “Meeting”? 
- NRS 241.015(3) defines “meeting” as “the gathering of members of a public body at which a quorum is present, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.”
- **Quorum**: a simple majority of the membership of a public body or another proportion set by law. NRS 241.015(5).
- **Deliberation**: collectively examine, weigh, and reflect upon the reasons for or against an action. NRS 241.015(2).
- **Action**: a decision, commitment, or promise made by a majority of the members present during a meeting. NRS 241.015(1).

Serial Communications
- A meeting also includes serial communications
- What is serial communication?
  1. A series of gatherings of members of a public body.
  2. Less than a quorum is present at any individual gathering.
  3. The members of the public body attend one or more of the gatherings collectively constitute a quorum; and
  4. The series of gatherings was held with the specific intent to avoid the provisions of the OML.

What is a Meeting? Exceptions (NRS 241.015(3)(b))
- The definition of a “meeting” does not include:
  - Social Functions where there is no deliberation or action taken on any matter over which the public body has supervision, control, jurisdiction, or advisory power
  - Attorney-Client Litigation Sessions – to receive information from the body’s attorney regarding potential or existing litigation matter over which the public body has supervision, control, jurisdiction, or advisory power.
  - Training Regarding Legal Obligations of the Public Body

Meeting Notice and Agenda Requirements – (NRS 241.020)
- Written notice must be given at least 3 working days before the meeting, which requires:
  1. Time, place, and location of the meeting.
  2. List of the locations where the notice was posted.
  3. The name, contact information, and business address for the person from whom a member of the public may request supporting materials and a list of the locations where the supporting materials is available to the public or information about how to find supporting material on the Internet; and
  4. An agenda
Meeting Notice and Agenda Requirements

- Agenda must consist of a clear and complete statement of the topics scheduled to be considered.
- Action items must be clearly denoted as "for possible action".
- Public comment, to be taken at the beginning/end of meeting or before any action taken on an item.
- If any portion of the meeting will be closed to consider the character, alleged misconduct, or professional competence of a person, the name of the person.
- If the public body will consider whether to take administrative action regarding a person, the name of the person.
- Notification that items on the agenda may be taken out of order, may be combined for consideration, and may be removed from the agenda or delayed for discussion at any time.

What Does it Mean to be “Clear and Complete”?

- Agenda items must be clear and complete. NRS 241.020(2)(d)(1).
- A higher degree of specificity is necessary for topics of substantial public interest. Sandoval, 119 Nev. at 154-55, 67 P.3d at 906. Factors to consider include:
  - Does the topic generate public comment?
  - Does the topic generate debate among the members of the body?
  - Does the topic generate media interest/coverage?

Ask yourself – does the notice provide enough information to the public of its government is doing, has done, or may do?

Minimum Public Notice – NRS 241.020(4)

- Must post a copy of the notice at least the following:
  1. Principal office of the public body.
  2. If meeting is held using a remote technology system and no physical location, post on the public body's Internet website.
  3. Official Notice website of the State; and
  4. Provide a copy to any person who has requested notice of the meetings.
- Must be posted no later than 9 a.m. of the third working day before the meeting.
- Additional notice requirements for consideration of character, misconduct, competence, or physical or mental health: 5 days personal service or 21 days certified mail. NRS 241.033.

Additional Requirements

- Must make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend. NRS 241.020(1).
- Must make reasonable efforts to ensure the facilities for the meeting are large enough to accommodate the anticipated number of attendees. NRS 241.020(2).
- At least one copy of the notice, agenda, and supplemental materials must be made available to the public at the meeting. NRS 241.020(7).

Emergency Meetings – NRS 241.020(9)

An emergency meeting may only be called where the need to act upon a matter is truly unforeseen and circumstances dictate that immediate action is required.

Closed Meetings – NRS 241.030

- Closed sessions may be held by any public body to:
  1. Consider character, alleged misconduct, professional competence, or the physical or mental health of a person, with some exceptions.
  2. Prepare, revise, administer, or grade examinations administered on behalf of the public.
body.
3. Consider an appeal by a person of the results of an examination appeal by a person of the results of an examination administered on behalf of the public body.

- Closed sessions may not be held:
  - To discuss the appointment of any person to public office or as a member of a public body.
  - To consider the character, alleged misconduct, or professional competence of an elected member of a public body, or a person who is an appointed public officer or who serves at the pleasure of a public body as a chief executive or administrative officer or in a comparable position.

Public Comment
- Restrictions on public comment must be specified on the Notice
- Restrictions must be reasonable “time, place, and manner” restrictions. NRS 241.020(d)(7). This means No:
  - Halting comment based on viewpoint of speaker.
  - Halting comment upon belief defamation is occurring; or
  - Halting comment critical of a public official.
- A presiding officer may halt comments that become unduly repetitive or that stray from the scope of a specified agenda topic for which comment is offered, or halt conduct that is willfully disruptive.
- The OML does not “prevent the removal of any person who willfully disrupts a meeting to the extent that its orderly conduct is made impractical.” NRS 241.030(4)(a).

Teleconferencing and Videoconferencing – NRS 241.023
- Public body may conduct a meeting via teleconference or videoconference if:
  1. There is a quorum present either in person or by electronic means; and
  2. Either:
     A. There is a physical location where the public is permitted to attend and participate; or
     B. They can hear and observe the meeting, participate in the meeting by telephone, and provide live public comment during the meeting.
- Public body must make reasonable efforts to ensure that the members and the public can hear and observe each other.

Meeting Records – NRS 241.035
- The public body shall keep written minutes of each meeting, including:
  - Date, time, and place of the meeting.
  - Roll call of members.
  - Substance of all matters proposed, discussed, or decided.
  - Substance of remarks made by the public if request is made that minutes reflect the remarks, or if written remarks are prepared, a copy of the remarks if submitted for inclusion in the minutes.
- Public body shall approve the meeting minutes within 45 days after the meeting or at the next meeting.
- Meeting minutes are public records.

Violations
- Action taken in violation of the OML is void. NRS 241.036
- The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040.
- If a violation is found, the public body must include an item on its next agenda which acknowledges the OAG’s findings, and the OAG’s opinion must be treated as supporting material for the item.
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NRS 241.0395.

Violations – Corrective Action
- When a violation of the OML occurs or is alleged, the OAG recommends that the public body made every effort to promptly correct the apparent violation. NRS 241.0365.
- Corrective action is prospective only. NRS 241.0365(4).
- Corrective action requires that the public body engage in an independent deliberative action in full compliance with the OML.
- Corrective action must be clearly denoted by placing the term “for possible corrective action” next to the appropriate agenda item.

Violations – Criminal and Civil Penalties
- Each member of a public body who attends a meeting where any violation of the OML occurs, has knowledge of the violation, and participates in the violation, is guilty of a misdemeanor. NRS 241.040.
- In addition to any criminal penalty, members may be subject to administrative fines ($500 for first offense, $1,000 for second offense, $2,500 for third offense).
- No criminal or civil penalty may be imposed against a member if reliance on legal advice provided by an attorney of the public body.

Assembly Bill 253 (2021)
- Public bodies not entirely comprised of elected officials may conduct meetings exclusively by means of remote technology systems
- To be able to hold a meeting using a remote technology system and no physical location, the public body must:
  1. Have an Internet website; and
  2. Post to that website the Notice and Agenda and supporting materials
- If conducting a meeting using a remote technology system and no physical location, notice must also include information on how the public may use the remote technology system to hear and observe the meeting, participate in the meeting by telephone, and provide live public comment during the meeting.
- Agenda and notice must be posted to the public body’s website not later than 9 a.m. on the third working day before the meeting

Additional Points
- Parliamentary procedure is not addressed in the OML – Duties of the presiding officer, recognizing speakers, motions and voting, making a clear record.
- Disclosure and abstention prior to consideration of a topic in conformance with Ethics in Government Law (NRS Chapter 281A). Abstain only in a clear case where the independence of judgement of a reasonable person in your situation would be materially affected by the conflict of interest disclosed.

9. DIVISION REPORT
Sheena Childers, VR Bureau Chief. Ms. Childers provided staffing updates. Currently there are 137 positions between the Bureau of Vocational Rehabilitation and the Bureau of Persons who are Blind and Visually Impaired, 35 vacancies or 33% is the vacancy rate. Social medial being used for recruitment activities. Short fall of the vacancies are with the Rehabilitation Counselors two’s and three’s along with Rehabilitation Technicians.

Mr. Elez informed the council that there had been no fair hearings reported since the last meeting in September. Council of State Administrators of Vocational Rehabilitation (CSAVR) was just completed, most
agencies are still struggling in hiring individuals. Struggles related to the new recruitment system that was recently implemented called Success Factors. There were changes in the recruitment process. Management is still working on coming up with ideas for staff retention.

Ms. Childers reported the current statewide VR case load size to be at 75 client’s per counselor with current case load vacancies. VR is in a very low risk of possibly go into order of selection as discussed in the last legislation session. VR is projected to be short about $750,000 in our drawdown match. The order of selection process requires many levels of approval before it’s implemented. It may be a 2 to 3-year process. Staffing is the main issue for the program to succeed in helping our clients.

10. COMMENTS BY THE COUNCIL
None.

11. PUBLIC COMMENT
Robin Kincaid, Director of Educational Services with Nevada Training and Information Center (NVPEP). She is also a parent of a young adult who receives Vocational Rehabilitation Services. She is requesting an agenda item for the next meeting regarding the Guinn report to consider and read outline their role in helping to include competitive integrated employment in Nevada. Robin provided a link HTTPS://guinncenter.org. Center Integrated Employment 2021. US Department of Education has put out guidance, which is a roadmap to children returning to school. Highlights are on page 35 with Vocational Rehabilitation Services and how the council could adapt and follow that guidance. Link provided: https://sites.ed.gov/roadmap/landmark2/

12. ADJOURNMENT
Meeting adjourned at 11:03 a.m.

Edited By:

Javier Fernandez, N.S.R.C. Liaison

Approved By:

David Nuestro, Vice-Chair