

NEBRASKA VR  
ORDER OF SELECTION  
11/2017

***(3) THE NUMBER OF INDIVIDUALS WHO ARE ELIGIBLE FOR VR SERVICES, BUT NOT RECEIVING SUCH SERVICES DUE TO AN ORDER OF SELECTION; AND (4) THE COST OF SERVICES FOR THE NUMBER OF INDIVIDUALS ESTIMATED TO BE ELIGIBLE FOR SERVICES. IF UNDER AN ORDER OF SELECTION, IDENTIFY THE COST OF SERVICES FOR EACH CATEGORY.***

Individuals eligible but not receiving services

Under the Order of Selection, Nebraska VR will continue to provide services to all individuals who are already receiving services under an approved Individualized Plan for Employment (IPE) prior to final approval of the Order of Selection by RSA and implementation by Nebraska VR. The projected number of individuals not receiving services and the estimated cost for services (projected savings) is:

Category 2: 1,158 individuals, with 475 individuals projected to require cost services at an average cost of \$1,739 with a projected savings of \$826,090.

Category 3: 581 individuals, with 233 individuals projected to require cost services at an average cost of \$1,739 with a projected savings of \$405,219.

Total projected savings: \$1,231,309.

Projected cost of services for individuals eligible (in Category 1 and all Categories 1, 2 and 3 individuals with current plans projected to require an expenditure in the current fiscal year):

*Projected New Cases FY 18*

Category 1: 2,131 individuals, with 886 individuals projected to require cost services at an average cost of \$1,739 for a projected total of \$1,461,539.

Category 2: 24 individuals projected to require cost services at an average cost of \$1,739 for a projected total of \$41,739.

Category 3: 10 individuals projected to require cost services at an average cost of \$1,739 for a projected total of \$17,391.

	Projected Number of Individuals	Projected Expenditures
<i>Category 1</i>		
FY14	43	\$109,039
FY15	90	\$169,947
FY16	233	\$489,105
FY17	685	\$1,586,451
Total Category 1	1051	\$2,354,542

	Projected Number of Individuals	Projected Expenditures
<i>Category 2</i>		
FY14	32	\$60,827
FY15	60	\$102,321
FY16	94	\$159,638
FY17	251	\$385,073
Total Category 2	437	\$707,859

	Projected Number of Individuals	Projected Expenditures
<i>Category 3</i>		
FY14	45	\$85,959
FY15	91	\$155,733
FY16	161	\$229,665
FY17	187	\$290,302
Total Category 3	484	\$761,659

Total All Categories	1972	\$3,824,060
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The total projected number of individuals to be served in FY 18 is 2,165 new cases and 1,972 carryover cases for a total of 4,137 individuals requiring \$5,344,729 in case service expenditures.

**(m) Order of Selection Describe:** (1) *The order to be followed in selecting eligible individuals to be provided VR services.* (2) *The justification for the order.* (3) *The service and outcome goals.* (4) *The time within which these goals may be achieved for individuals in each priority category within the order.* (5) *How individuals with the most significant disabilities are selected for services before all other individuals with disabilities; and* (6) *If the designated State unit has elected to serve eligible individuals, regardless of any established order of selection, who require specific services*

*or equipment to main employment.*

The order to be served

Individuals applying for services in FY 2018 will be assessed and their eligibility determined along with their priority category. Eligible client's names will be placed on a waiting list if assigned to a closed priority category. When financial resources are available, first priority will be given to clients determined most significantly disabled, second priority to those determined significantly disabled and third priority to those determined non-significantly disabled. Rationale for priority category placement will appear in the client's case file.

Each client will be notified in writing of all the priority categories, his/her assignment to a priority category, if priority category is open or closed, an individual's priority assignment can be re-evaluated when new or additional information becomes available affecting the individual's functional limitation, his/her right to appeal the category assignment through informal or formal review and of the availability of assistance from the Client Assistance Program.

Clients who do not meet the Order of Selection criteria for receiving VR services will be provided:

- a. VR information and guidance (which may include counseling and referral for job placement) using appropriate modes of communication to assist them in preparing for, securing, retaining/regaining or advancing in employment.
- b. Referred to other appropriate Federal and State programs, including programs carried out by other components of the Statewide Workforce Investment System, best suited to address the specific employment needs of the individual along with information identifying a specific point of contact within the agency.

All funding arrangements for providing services shall be consistent with the Order of Selection. If any funding arrangements are inconsistent with the Order of Selection, Nebraska VR shall renegotiate these funding arrangements so they are consistent with the Order of Selection.

Staff training on Order of Selection was completed during the week of October 30, 2017 and will be reviewed in six months.

Overview of the training includes:

*Procedure for processing applications:*

1. Upon receipt of referral, specialist meets with applicant to complete application and inform them about Order of Selection.
2. Specialist will input data and application date; and determine eligibility within 60 days from the date of application.

3. After eligibility determinations are made, clients will be assigned to an Order of Selection priority category based on their functional limitations and need for VR services over an extended period of time.

4. Client's name will be put on a waiting list if placed in a closed priority category. Priority Group letter will be sent to all new clients.

*Procedure for putting clients on the waitlist:*

1. For each closed priority category, clients will be put on the waiting list based upon application date.

2. Administrative Office will be responsible to maintain the waiting list.

*Procedure for taking clients off the waiting list:*

1. Administrative Office will determine when to open or close a priority category based upon Nebraska VR's financial and personnel resources. One priority category will be opened at a time to clear the waiting list for that priority category before opening the next priority category.

2. A waiting list will be generated each month and based on the availability of resources, the Administrative Office will determine approximately how many clients will be taken off the waiting list for the recently opened priority category based on the date the individual applied for services.

3. Clients will be notified by letter from the Administrative Office their names are coming off the waiting list with a copy of the letter being sent to their specialist.

4. The specialist will contact the client.

5. Specialists will complete the IPE within 90 days from the date the client was taken off the waiting list.

*Pre-Employment Transition Services*

- Students who are considered "potentially eligible" for VR services will receive pre-employment transition services regardless of the Order of Selection, and are served when a signed Pre-employment Transition Consent and Release is in place.
- Students with disabilities who apply for VR services and who began receiving pre-employment transition services prior to applying for and being determined eligible, will continue to have access to pre-employment transition services even if their priority group closed. (Cannot receive any individualized VR services until priority group is being served and they come off the waiting list)
- Any student with a disability that has applied for VR services who is not yet participating in pre-employment transition services when the eligibility determination is made, and who is placed in a closed priority group will be served when funding is sufficient, by the date the application is signed by the client. (Cannot receive pre-employment transition services)

- Any student with a disability who is determined eligible for VR services and placed in an open priority group can receive the full range of services offered through VR, including pre-employment transition services and individualized VR services.

Justification for the order

1. Required 15% for Pre-Employment Transition Services

The Workforce Innovation and Opportunity Act (WIOA) of 2014 mandated State VR Agencies to set aside 15% of VR funds each year (approximately \$2.5 million) for Pre-Employment Transition Services. This new fiscal requirement placed an additional burden on expenditures in all other areas of operating the VR Program. The 15% required for Pre-ETS expenditures are:

- FFY 2015: \$230,731
- FFY 2016: \$2,538,994
- FFY 2017: \$2,376,036

2. Reduction in Federal Funds

The amount of federal funds received by Nebraska VR since 2015 has decreased, as shown below. In federal fiscal year 2017 Nebraska VR was not re-allotted federal funds at the non-Federal match level. Nebraska VR requested \$8,597,761 in federal reallocation funds and received \$907,866 (an amount that did not even fully match the required non-Federal match for FY 17). Our projected FY 2018 Title I federal grant funds of \$15,346,609 and matching non-federal funds of approximately \$4,690,697 (MOE) for basic vocational rehabilitation services will not be sufficient to cover the cost of services mandated under WIOA and required to be provided to individuals who are eligible for planned services.

- FFY 2015           \$17,139,610
- FFY 2016           \$16,926,628
- FFY 2017           \$15,840,244

3. Increase in Referrals for Services and Increase in Personnel to Meet the Need

Since federal fiscal year 2015, Nebraska VR has experienced an increase in referrals to the program.

- FFY 2015           4,306
- FFY 2016           7,262
- FFY 2017           11,319

In order to serve the increased number of individuals coming into the program and an increased emphasis on business relations, and due to Nebraska VR providing pre-employment transition services and vocational rehabilitation services by Nebraska VR staff, personnel were added to handle the increasing demand. Personnel costs have increased as follows:

- FFY 2015:           \$11,826,917
- FFY 2016:           \$12,590,458
- FFY 2017:           \$13,604,800

Note: In addition to implementing an Order of Selection and closing two priority categories, Nebraska VR will reduce personnel costs through a hiring freeze and not replacing positions that become vacant over the next year.

4. Reduction in Carryover Funds Available

To date, Nebraska VR has been able to cover the increase in expenditures with its Federal and State appropriation and by utilizing carryover funds from the previous fiscal year. However, as expenditures increased, federal funds decreased, and funds were shifted to cover the required 15% of Pre-Employment Transition Services, the amount of carryover funds for planned services has been reduced.

- FFY 2015            \$4,163,646
- FFY 2016            \$2,622,004
- FFY 2017            \$2,303,037

At the close of FFY 2017, Nebraska VR estimates any remaining FFY 2017 carryover funds (\$2,303,037) will be restricted to meet the 15 percent Pre-Employment Transition Services reserve and would not be available for general services.

5. Increase in Nebraska Department of Education Indirect Cost Rate

NDE has received a new Indirect Cost Rate Agreement effective July 1, 2017 with the U.S. Department of Education. The agreement is for the period July 1, 2017 through June 30, 2020. The new unrestricted Indirect Cost Rate is 13%. This is approximately a 50% increase from the previous indirect cost rate and is estimated to increase the charge to Nebraska VR by \$558,000 in FFY 2018.

Nebraska’s combined available funds in FY2018 are projected to be only \$21,067,730 million. Projected expenditures of \$25,800,00 (at last year’s pace) would leave a deficit of approximately \$4,732,270. As a result, Nebraska VR will be unable to provide the full range of services to all eligible individuals for FFY 2018 and needs to implement an Order of Selection as soon as possible for the continuation of services to all individuals currently under an IPE and receiving services.

Service and outcome goals

In the implementation of the Order of Selection, Nebraska VR will continue to provide services to all individuals who are already receiving services under an approved Individualized Plan for Employment (IPE) and any open priority categories. Statewide, Nebraska VR’s total projected number of individuals to be served in FY 18 is 2,165 new cases and 1,972 carryover cases for a total of 4,137 individuals requiring \$5,344,729 in case service expenditures.

The following table depicts the number of new cases for FY 13 through FY 18 to date for Priority Categories 1, 2, and 3. The table reflects the number of cases expected to have an expenditure in the year of eligibility and subsequent years of service. Less than half of new cases have an expenditure the first year and even fewer the second year and substantially less after that. The table was used to formulate the projections for the number of individuals to be served and the projected case service expenditures for FY 18 (under the first section of this amendment on the first page).

Table 1

Priority 1													
	New Cases	FY 2013 Payments		FY 2014 Payments		FY 2015 Payments		FY 2016 Payments		FY 2017 Payments		FY 2018 Payments	
		Count	Spending	Count	Spending	Count	Spending	Count	Spending	Count	Spending	Count	Spending
FY 2013	1639	515	\$525,960	425	\$467,167	190	\$353,385	75	\$132,711	38	\$96,211	0	\$0
FY 2014	1881			621	\$591,028	644	\$1,438,786	205	\$351,388	85	\$160,549	6	\$8,210
FY 2015	2129					894	\$1,691,422	676	\$1,919,837	217	\$454,794	10	\$5,265
FY 2016	2327							940	\$1,778,343	727	\$1,683,142	22	\$12,867
FY 2017	2131									886	\$1,461,539	65	\$135,288
FY 2018	60											4	\$1,120
												\$3,856,235	

  

Priority 2													
	New Cases	FY 2013 Payments		FY 2014 Payments		FY 2015 Payments		FY 2016 Payments		FY 2017 Payments		FY 2018 Payments	
		Count	Spending										
FY 2013	1383	502	\$501,012	332	\$416,735	97	\$170,022	51	\$96,137	29	\$74,633	2	\$2,236
FY 2014	1431			464	\$437,598	347	\$576,316	133	\$191,869	56	\$85,812	2	\$1,244
FY 2015	1739					691	\$526,717	491	\$697,422	142	\$241,176	10	\$4,471
FY 2016	1531							614	\$682,026	325	\$497,758	21	\$7,048
FY 2017	1158									475	\$661,224	39	\$134,916
FY 2018	24											2	\$230.45

  

Priority 3													
	New Cases	FY 2013 Payments		FY 2014 Payments		FY 2015 Payments		FY 2016 Payments		FY 2017 Payments		FY 2018 Payments	
		Count	Spending	Count	Spending								
FY 2013	1553	503	\$434,447	370	\$472,520	162	\$251,355	91	\$155,255	45	\$85,959	6	\$5,102
FY 2014	1525			448	\$334,703	344	\$505,701	176	\$259,001	91	\$155,733	3	\$1,488
FY 2015	1269					375	\$336,670	298	\$386,698	176	\$250,697	8	\$2,767
FY 2016	1015							340	\$372,211	273	\$423,616	13	\$8,433
FY 2017	581									233	\$272,399	20	\$12,565
FY 2018	7											3	\$5,403

Average cost of services per individual (FY 17): \$1,739.14

Timeline to achieve goals

<b>Application to close successful</b>	<b>FY 16</b>	<b>FY 17</b>
Priority 1	441	453
Priority 2	463	557
Priority 3	619	655

<b>Application to close unsuccessful (days)</b>	<b>FY 16</b>	<b>FY 17</b>
Priority Category 1	341	416
Priority Category 2	368	417
Priority Category 3	495	600

<b>Plan to close successful (days)</b>	<b>FY 16</b>	<b>FY 17</b>
Priority Category 1	356	362
Priority Category 2	390	470
Priority Category 3	476	522

<b>Plan to close unsuccessful (days)</b>	<b>FY 16</b>	<b>FY 17</b>
Priority Category 1	432	501
Priority Category 2	502	487
Priority Category 3	487	607

The average number of days relative to services and closure supports the finding that most expenditures occur within the first two years after application and determination of eligibility.

How individuals with the most significant disabilities are selected

Nebraska VR anticipates it will be necessary to close one or more priority categories under the Order of Selection. All current clients will be notified in writing of all the priority categories, his/her assignment to a priority category, if priority category is open or closed, individual's priority assignment can be re-evaluated when new or additional information becomes available affecting the individual's functional limitation, his/her right to appeal the category assignment through informal or formal review and of the availability of assistance from the Client Assistance Program.

New clients determined eligible and current clients not under an IPE who are assigned to a closed priority category at the time of implementation of the Order of Selection will be placed on a waiting list until the resources are available to provide the full range of services. However, services will continue for all clients who are already receiving services under an approved Individualized Plan for Employment prior to the implementation of the Order of Selection.

Priority Category 1 (Individuals with Most Significant Disabilities) will be served first;

Priority Category 2 (Individuals with Significant Disabilities) will be served second; and

Priority Category 3 (Individuals with Non-Significant Disabilities) will be served third.

Descriptions of Priority categories:

- Priority Category 1: Clients determined to have a most significant disability. These are clients with severe physical or mental impairments that seriously limit two (2) or more functional capacities and who require multiple services over an extended period of time.
- Priority Category 2: Clients determined to have a significant disability. These are clients with severe physical or mental impairments that seriously limit one (1) or more functional capacities and who require multiple VR services over an extended period of time.
- Priority Category 3: Clients determined to have a non-significant disability. All other VR eligible clients.

Significance of disability and Priority Group are determined after reviewing the client's medical records, assessment reports, and determining the client's ability to complete work related tasks. These work-related tasks are categorized into 7 functional capacity areas:

- Communication
- Mobility
- Self-direction
- Work tolerance
- Interpersonal skills
- Self-care
- Work skills

The Order of Selection shall not be based on any other factors, including:

- Any duration of residency requirement, provided the individual is present in the State;
- Type of disability;
- Age, gender, race, color or national origin;
- Source of referral;
- Type of expected employment outcome;
- The need for specific services or anticipated cost of services required by an individual; or
- The income level of an individual or an individual's family.

Election to serve individuals who require specific services or equipment to maintain employment

*Exceptions to Policy on Order of Selection:*

Nebraska VR elects to serve individuals who require specific services or equipment to maintain employment regardless of their priority category. Priority will be given to individuals currently working

but would almost certainly lose his or her current job if not provided specific services or equipment in the very near future that would enable him or her to retain that employment.

- a. An IPE can be developed and the services required can be provided immediately.
- b. VR services can only be provided to maintain the current employment.
- c. The client is not eligible for post-employment services.
- d. The case record must document communication from the employer stating the employee is at immediate risk of losing their job.
- e. The client is not required to disclose the disability to the employer.
- f. The client requires only specific services or equipment that will keep the client in his/her current job.

**Note 1:** This exemption does not apply to those losing jobs because the employer is going out of business, eliminating the job, or for other business-related decisions. **Note 2:** This exemption does not apply to clients who are underemployed or seeking to maximize their employment. **Note 3:** This exemption does not apply to those who are seeking to change employer.

### **11/3/17 PUBLIC MEETING**

Public Meeting to Gather Input on the State Plan Amendment occurred on Friday, November 3, 2017 at 10:00 a.m. The public meeting was held at the VR Lincoln Service Office, 3901 N. 27<sup>th</sup> Street, Suite 6 and included video conferencing sites in Scottsbluff, North Platte, Kearney, Grand Island, Columbus, Fremont, Norfolk, Lincoln State Office (VR staff only), and two sites in Omaha.

Mark Schultz, Nebraska VR Director, opened the public meeting. An overview of the purpose of the state plan amendment was provided. Additionally, Nebraska's process for implementing the Order of Selection was also shared. A call for public input was made. After all attendees were offered the opportunity to provide comment, the public meeting was concluded at 10:40 a.m.

According to State Statute 81-1411(1) at least one copy of all documents being considered was available to the public at each site of the videoconference and at least one Nebraska VR staff member was present at each site of the videoconference.

#### **Public in attendance:**

Erin Raabe, North Star/West Point  
Cory Deane, North Star/Fremont  
Robert Reed, North Star/Fremont  
Michael Crawford, DHHS DD  
Kristi Acklie, DHHS DD

Sherry Mach, North Star  
Laurel Johnson, North Star/Bloomfield  
Emily Freudenburg, AgrAbility/Easterseals NE  
Roger Stortenbecker, Collaborative Industries  
Alberto Cervantes, United Healthcare  
Holly Holle, Integrated Life Choices  
Denise Kraus, ILD  
Shari Bahensky, Client Assistance Program  
S. Mahoney  
Michelle Olson, ASC ResCare  
Jan Norlander-Jensen, Greater Lincoln WIOA Board  
Ian Froemming, Monroe-Meyer Institute  
Tara Harper, Monroe-Meyer Institute  
Cory Busboom  
Tobias, Orr, Assistive Technology Partnership  
Dylan Wren, Greater Nebraska Workforce Development Area  
Diana Nuffer, North Platte Opportunity Center  
Tina Gastineau, North Platte Opportunity Center  
Randa Musil, Goodwill  
Kathy Scusa, Nebraska Commission for the Deaf & Hard of Hearing  
Gloria Kennedy, United Healthcare  
Pamela Brezenski, ESU 13  
Rodney Peterson, AgrAbility/Easterseals NE  
Shane Bastron, Integrated Life Choices  
Amy Vetter, Hastings Public Schools  
Becki Koehler, Goodwill  
Allison Nelms, Friendship House  
Bethanni Hulme, Integrated Life Choices  
Tamara Sinder, Goodwill  
Jamie Meyer, Independence Rising  
Vicki Anson, Independence Rising  
Irene Britt, Independence Rising  
Carol Fletcher, Parent  
Britt Sommer, DSN/Omaha  
Carol Salber, Parent  
Judy Thompson, Parent  
Leanne Whetstone, Parent  
Nick Lurz, State Probation  
Kathleen Samland, Parent  
Kelly Adams, Community Options  
Bill Emsick, DSN/Omaha  
Sarah Miller, VODEC  
Kim Carman, Mosaic/Omaha  
Jeffrey Gorman, Mosaic/Omaha  
Andrea Street, EPS  
Susan Dour, ESN  
Blaine Villafuente, Ollie Web Center  
Robin McArthur, Ollie Web Center

Teresa Hevner, Nebraska Commissioner for the Deaf and Hard of Hearing  
Beth Ellsworth, Nebraska Commissioner for the Deaf and Hard of Hearing  
Sam Comfort, Goodwill Industries  
Holly Schwietz, Goodwill Industries  
Denise Stuart, Community Alliance  
Cara Ehegartner, Community Alliance  
Erin Porterfield, Heartland Workforce Solutions  
Deanna Jesse, Nebraska Commission for the Blind and Visually Impaired  
Nicole Weaver, Goodwill  
Kaylce Zerr, Goodwill  
Jami Garey, ESU #11  
Aaron Rothenberger, Nebraska Commission for the Deaf and Hard of Hearing  
Von Alavi, DSN

**Comments During the Public Meeting:**

- Greater Lincoln WIOA Board representative, Jan Norlander-Jensen, communicated as a partner of Nebraska VR, their staff are committed to assisting as needed to support individuals with disabilities. Norlander-Jensen stated she looks forward to upcoming training opportunities offered by Nebraska VR.
- Greater Nebraska Workforce representative, Dylan Wren, communicated as a partner of Nebraska VR, their staff are committed to assisting as needed to support individuals with disabilities.
- Tara Harper, Representative from Munroe-Meyer UNMC, offered support to Nebraska VR by means of technical assistance to other partners specific to working with individuals with developmental disabilities.
- Holly Holle of Integrated Life Choices recommended clarification be provided in the amendment whether retention services includes supporting someone who is wanting to change profession/career choice.
- Alberto Cervantes of United Healthcare commented the agency is willing to assist with referrals as appropriate.
- Heartland Workforce Solutions Inc. representative, Erin Porterfield, communicated the agencies commitment to support Nebraska VR and individuals with disabilities.
- A parent, Leanne Whetstone, requested additional information be provided in the amendment specific to the functional capacities.
- Nick Lurz, from State Probation, commented about the successful partnership currently in place between Probation and Nebraska VR and his hope the agency will explore ways for the partnership to continue.
- Emily Freudenburg from AgrAbility/Easterseals NE commented there needs to be further discussions between AgrAbility and Nebraska VR regarding referrals to ensure a consistent process is implemented.
- Rod Peterson from AgrAbility/Easterseals also expressed interest in a future meeting with Nebraska VR to discuss the referral process.
- Pamela Brezenski of Educational Service Unit #13 (Scottsbluff) shared there could be additional information schools are providing to assist Nebraska VR in the eligibility process. Schools and the Educational Service Units would need additional training to gain better understanding of what information is needed.

- Becki Koehler of Goodwill Industries of Greater Nebraska encouraged Nebraska VR to utilize Employment Networks (EN) when referring individuals placed in Priority Categories 2 and 3.

### **Specific Input from the Client Assistance Program (CAP)**

I understand and agree with the reasons that Nebraska VR has shown regarding the need to go into an Order Of Selection. I understand that Nebraska VR has determined that available and projected resources have changed and will not be adequate to ensure the provision of the full range of vocational rehabilitation services, but will continue to provide services to all individuals who are already receiving services, as of November 3 or upon final approval by RSA, under an approved Individualized Plan for Employment (IPE). Nebraska VR anticipates it will be necessary to close Priority Categories 2 and 3 and all current clients will be notified in writing of all the priority categories, his/her assignment to a priority category, if priority category is open or closed, individual's priority assignment can be re-evaluated when new or additional information becomes available affecting the individual's functional limitation, his/her right to appeal the category assignment through informal or formal review and of the availability of assistance from the Client Assistance Program. Finally, I agree with the procedures that will be put in place to provide clients who do not meet the Order of Selection criteria for receiving VR services further information and guidance on other resources available.

Shari Bahensky  
Nebraska Client Assistance Program Director

### **Specific Input from the State Rehabilitation Council (SRC)**

Specific input was obtained from SRC members at the regularly scheduled meeting on October 10, 2017. Mark Schultz summarized the funding of Nebraska VR and reviewed the Order of Selection as discussed at prior council meetings. Mark summarized the state/federal match that is utilized for VR funding and why Nebraska VR is now facing a situation where adequate resources are not available to meet the needs of all individuals requiring VR services. Mark discussed the four biggest costs of VR: case services, staff, indirect costs and rent costs and the impact of resource decisions for each area. Mark stated VR needs to go into an Order of Selection to meet budget needs. Council members discussed the need to go into an Order of Selection. Mark reviewed the three priority categories of an Order of Selection. Mark shared the priority categories as follows: Priority Group 1- individuals with severe physical or mental impairment resulting in a rating of very low in two or more functional areas. Functional areas include: mobility, communication, interpersonal skills, self care, self-direction, work tolerance and work skills. Priority group 2 -an individual with severe physical or mental impairment resulting in a very low rating in one functional area. Priority group 3- all eligible individuals. Mark then discussed the administration of the Order of Selection. Mark shared they are currently gathering information to determine which priority groups will need to be closed. As part of the State Plan process it can be set that if an individual comes to VR stating they will lose employment unless they receive services and that can be verified, they can be considered a top priority and pulled off the wait list. Mark suggested Nebraska VR choose that option as we do not want individuals losing jobs; sharing it is easier to keep individuals employed

than to find new employment. Mark stated that in terms of administration they will monitor expenditures and revenue and every month a committee will review the agency's revenues and expenditures and determine how many individuals might be pulled off the list to receive services. Members discussed council support of the necessity for an Order of Selection. Mark reported the Order of Selection will go into effect as soon as approval is received from RSA. VR has instated an immediate hiring freeze and will be eliminating as much discretionary spending as possible to maintain funds for case services. Mark shared that students in pre-employment transition services who are not currently receiving VR services will be placed on a waiting list for VR services if they apply for and are determined eligible for VR services. They will continue to receive pre-employment transition services. Mark reviewed the administration of Order of Selection including, fiscal forecasting, cost containment, staff resource assessment, SRC consultation, policy review, and a state plan hearing followed by setting a start date. Lindy Foley stated if VR is not able to serve a client due to Order of Selection, the core partners can assist those individuals. Mark discussed no cost services staff can offer individuals as well as referral options.

**Chris Gaspari moved to support VR's proposal to RSA for an Order of Selection, Gayle Hahn seconded the motion. There were no objections to the motion.** The motion carried by unanimous consent.

#### **Written Comments Received:**

Nebraska VR's response to the oral and written comments provided as a result of the public meeting are captured in the summary and response to written comments that follow.

Concerns were expressed that VR consider the level of support and job coaching needed for Priority Category 1 individuals and the current funding levels under the milestone payment system for supported employment.

**Response:** The milestones and payment amounts were established after a review of similar supported employment milestone payment levels in other states. Nebraska's payments have been established on the high end of the range based on that research. We will reassess the amounts after the first year and revise if necessary. Providers are welcome to provide any supportive documentation of actual costs as part of our consideration.

Many comments were received requesting further clarification of the "two or more functional capacities" required to be eligible for the three Priority Categories.

**Response:** There are seven areas in which VR staff assess functional limitations by reviewing information from referral sources, medical documentation, and observations from on the job evaluations as warranted. A rating of very low in any two areas will result in placement within Priority Category 1, one very low rating will result in a Priority Category 2 placement, and everyone else will be placed in Priority Category 3. The seven areas for which functional limitations are assessed are now included in the state plan amendment. Determination of eligibility and priority categories are required to occur within 60 days after applying for VR services. Upon agreement, an extension of the 60 day requirement can be made if necessary. Determinations are made by VR staff who are qualified Rehabilitation Counselors. The criteria and process for eligibility and prioritization is not new and has been in policy since 1992. Additional information about the Priority Categories and the process for assessing functional limitations is detailed in VR policies and procedures and can be found at

[http://webforms.vr.ne.gov/vr\\_forms/program\\_manual\\_chapters/23](http://webforms.vr.ne.gov/vr_forms/program_manual_chapters/23)

Several commenters were concerned that specific targeted populations such as ABI/TBI, deaf and hard of hearing, and mental health are not specifically addressed in the Plan.

**Response:** Eligibility and prioritization are not based on the type of disability but instead on the functional limitations that are a result of the disability and their impact on the individual's ability to work.

One individual requested there be detailed provisions for partner agencies to provide ongoing/onsite supports in the form of job coaching or employer advocacy on behalf of individuals with disabilities.

**Response:** Nebraska VR will be providing training to core and required partners under WIOA, including American Job Center (AJC) personnel, as to the particulate needs of individuals with disabilities being referred for services. The availability of job coaching and advocacy services will be dependent on the eligibility requirements and specific services available by each partner. Training will include the importance of these services in the successful employment of individuals with disabilities. It was suggested we include providers in the planning and training of AJC staff and other community partners. This is a great suggestion and we will consider this as we move forward.

Written input was received stating there will need to be a universal referral process for individuals needing to access services through community agencies/partners (AJC) in addition to information regarding this process disseminated to families and service providers.

**Response:** WIOA lays out the requirements for information and referral by VR for individuals unable to be served by VR due to an Order of Selection. The core partners under WIOA have also issued an RFP for the development of a coordinated intake and case management system as a forum for referrals between partners in the workforce system and communicating their status and services being provided in order to maximize assistance and eliminate duplication. This system is expected to be operational for core partners in July 2018.

A comment was provided requesting a specific site that parents or other individuals can go to find out more about and access services. An agency could post information about what they do and what services they do or don't provide.

**Response:** This is a great suggestion but is beyond the scope of what is being proposed in the Order of Selection in the state plan amendment. The Hotline for Disability Services, 1-800-742-7594, has information about community services for parents and individuals with disabilities including what services are available. As part of the information and referral required to be provided to individuals in a closed category, Nebraska VR intends to provide information about this resource. Other resources, including the availability of Employment Networks, will be provided when appropriate to direct individuals to resources that can assist where possible.

Several comments were received from individuals with family members that were concerned about their status of eligibility or services when a waiting list is implemented. It was stated that individuals want to work but need help to find jobs and have supports in place to be successful. At least one individual stated they have contacted their Senators to express their support for the program and funding.

**Response:** Nebraska VR is following up with individuals who made specific comments about their status or that of their family members in order to answer questions or provide additional information to clarify their current and potential status under an Order of Selection. We appreciate the support many have offered to share the value of VR services.

One commenter was concerned the changes were taking effect immediately and many parents were unaware of what could potentially be disastrous consequences for their children. They were especially concerned for the impact this decision would have on their child's life in the immediate future.

**Response:** The Order of Selection will not go into effect until we have received approval from RSA. It is unclear how long the approval process will take but the sooner we can enter into an Order of Selection the sooner we can ensure the availability of funding for individuals with the most significant disabilities having the greatest need for VR services. This information will be provided to students with disabilities participating in pre-employment transition services as Nebraska VR staff continue to provide those services throughout the year. Staff can participate by attending face to face or by phone in the IEP meetings, if requested, to assist with planning for transition services and identify resources from Nebraska VR or community partners that are available to assist in realizing the goals of the plan.

One commenter was particularly concerned about the continuation of pre-employment transition services under an Order of Selection. They stated families often do not understand adult services, how it works and who to turn to. There is little information passed along at IEP meetings and families need assistance in navigating these systems in order to set up successful services for their young adults.

**Response:** Nebraska VR has staff assigned to every school district with a responsibility for providing pre-employment transition services to students with disabilities, including those who are potentially eligible for VR services. Individuals receiving pre-employment transition services prior to applying for VR services will continue to be provided pre-employment transition services including job exploration counseling, workplace readiness training, counseling on options for post-secondary training, work-based learning experiences, and self-advocacy. Students with disabilities needing VR services, who do not have a Plan for Employment at the time an Order of Selection is implemented, will follow the same process for prioritization and eligibility as all other individuals. At this time, only students found to be in Priority Category 1 will be served due to the expectation Priority Categories 2 and 3 will be closed. Students unable to receive VR services will be referred to other agencies for assistance, such as the American Job Centers, Independent Living Centers, Employment Networks and other community partners. Nebraska VR and the Division of Developmental Disabilities have an agreement that provides for greater coordination between our systems and the school to ensure student with ID/DD have the necessary support for transitioning from school to adult services and employment.

One comment was received asking if we are working with family stakeholders to assist in input to changes, development of family friendly materials, etc.?

**Response:** Nebraska VR utilizes the Nebraska Youth Leadership Council (NYLC) to review materials. The NYLC is made up of students with disabilities who help raise awareness of disability issues for students, serve as role models, and provide guidance on how to get our message across to other students. The State Rehabilitation Council (SRC), which consists of former and current VR clients, also provides input on materials and our website content.

One comment was received regarding the impact of staff turnover on the availability of services and information for families. They are uncertain who to call when the VR person is no longer available.

**Response:** Nebraska VR has made progress during the last two years in reducing staff turnover. However, there will always be some turnover or changes in staff responsibilities that could impact on who provides pre-employment transition services to a particular school or students. Extensive training is provided to new staff and when possible, new staff shadow the current specialist to make introductions to students, families, teachers and partners. If it's unclear who should be contacted in the event of a change in personnel, families can go to VR's website, <http://vr.nebraska.gov/> or contact the local VR office to find out who is responsible for coordinating services with their school.

A question was asked about the rights of youth in the relationship with VR and the appeal process for determinations that lead to closing a case.

**Response:** Rights and responsibilities of all individuals applying for and/or eligible for VR services can be found at [https://2x9dwr1yq1he1dw6623gg411-wpengine.netdna-ssl.com/wp-content/uploads/2017/10/Rule71\\_2000.pdf](https://2x9dwr1yq1he1dw6623gg411-wpengine.netdna-ssl.com/wp-content/uploads/2017/10/Rule71_2000.pdf). The appeal process and timelines are also available at [http://webforms.vr.ne.gov/assets/vr\\_forms/13/original/Application\\_5-17.pdf](http://webforms.vr.ne.gov/assets/vr_forms/13/original/Application_5-17.pdf). Individuals have 30 days to appeal agency decisions. This information will be included in the eligibility and prioritization letters.

One commenter asked why the public was not given a 10 day notice regarding the VR public meeting.

**Response:** The notice regarding the VR Public Meeting for November 3, 2017 was posted to the Nebraska VR website 10 days prior. Nebraska VR also shared this information to the public, required stakeholders and broadcast the notice to all our workforce and community partners as evidenced by the attendance and input received.