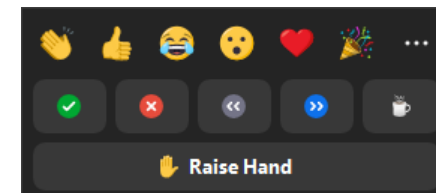
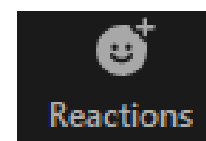
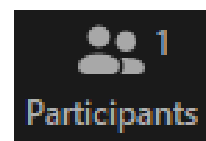
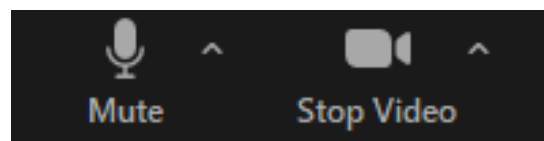


# Welcome! May 10, 2022

- Welcome to the Task Force on Eliminating Subminimum Wages meeting!
- Please use this time to get settled and test the online meeting technology
- Meeting controls to be familiar with during task force meeting (located at the bottom of the screen):
  - **Mute/unmute:** Mute and unmute your microphone.
  - **Stop video/Start video:** Turns your camera on or off.
  - **Participants:** See who's currently in the meeting.
  - **Reactions (smiley face icon):** Provides ability to “raise hand” that appears on-camera.



# Co-chair welcome

- Welcome to the group
- High-level overview of agenda
- Any changes to the meeting notes from the April meeting?

# Online process and norms

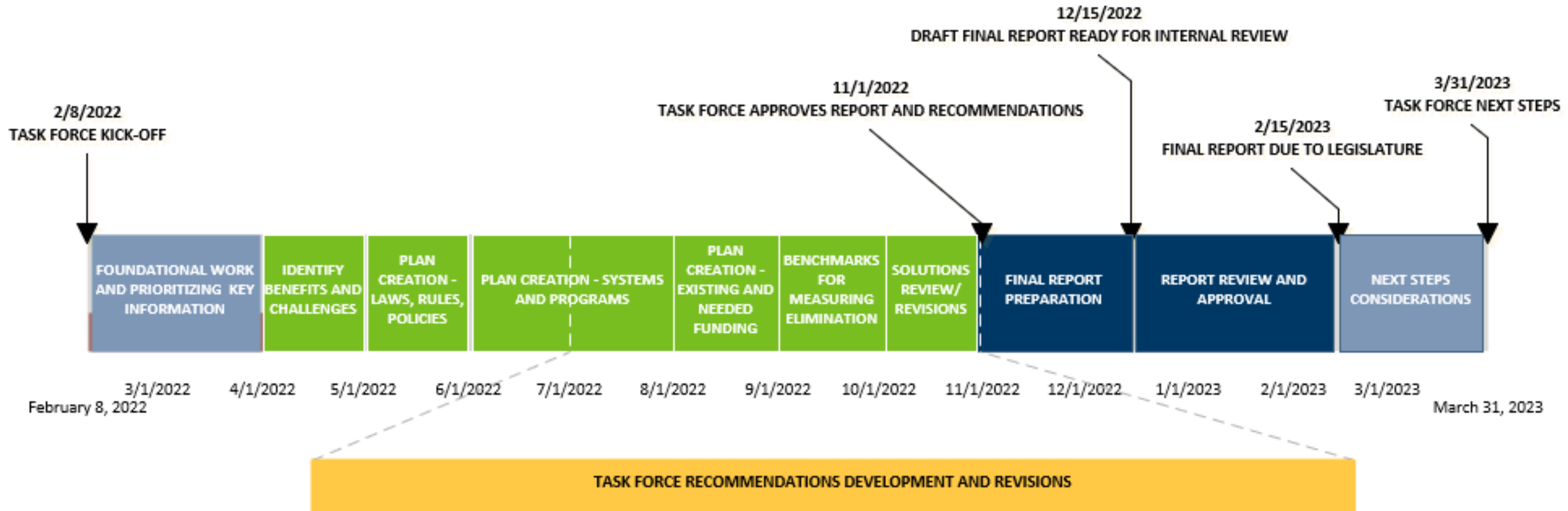
- Please say your name when you speak.
- Put yourself on mute when not speaking.
- To participate - use “raise hand” feature in Zoom or raise your hand; then unmute.
- Participate in a manner that is most meaningful to you. Use video, if possible.
- Show up as it best suits you.
- Honor your needs throughout the meeting.
- Technical difficulties happen. Contact (Jake Granholm from MAD; [Jacob.Granholm@state.mn.us](mailto:Jacob.Granholm@state.mn.us)) for help.

# Task force updates

# Task force timeline meeting topics overview

## Task force on Eliminating Subminimum Wages

(Note: phases are estimates and may be updated, as needed)



# Benefits Themes from April Meeting Group Work

- Benefits of eliminating subminimum wages generally differed across audiences. Some examples of sub-themes included:
  - For people with disabilities: skills improvement, increased satisfaction, independence, and engagement.
  - For employers: reduction in costs, more employees in labor pool, and increased flexibility.
  - For families: less financial reliance on family and more positive work situation can mean less worry for families.
- Positive economic impacts at the individual and community levels was a theme that cut across audiences. Additionally, benefits to well-being for individuals, businesses, other employees, and the community was another theme mentioned across audiences.

# Challenges Themes from April Meeting Group Work

Task force members identified three primary themes for challenges including:

- Supports: Challenges in getting needed supports for employees and employers and having enough supports.
- Lack of information from various perspectives: Lack of information for people with disabilities and their families on competitive integrated employment and lack of information for employers on hiring people with disabilities.
- Ableism/negative perception: Perceptions of employees with disabilities as a major barrier to competitive integrated employment

# Draft TFESW Strategies to Address Challenges/Barriers

- People with disabilities and their families have access to the **necessary supports** (such as transportation, job coaching, or day support services) to move into or maintain competitive integrated employment and reach their goals.
  - **Systems and policies aspects shift** to support and enable people with disabilities to access competitive integrated employment.
- Employers/providers have the **necessary business/provider supports** to change their business approach to competitive integrated employment.



# Draft TFESW Strategies to Address Challenges/Barriers

- People with disabilities are not stereotyped or marginalized in work settings; there is **education and engagement work** to change perceptions.
- People with disabilities, their families, and employers have **access to accurate information** about competitive integrated employment.
  
- Questions and task force discussion

# Policies from other states for how state government operates

- Topic: State government policies for what states themselves do to transition away from subminimum wages
- Ideas and information from four states that have successfully reduced or eliminated use of subminimum wages: Iowa, Maryland, Ohio, and Oregon
- Changing fee schedules and allowable reimbursements under Medicaid waiver plans
  - Defining day services as supports for exploring and moving toward employment
  - Redefining work at subminimum wages as preparation for a job
  - Increasing cooperation, coordination, and alignment among state agencies
  - Encouraging or requiring partners at the local level to align with the state's focus on competitive integrated employment
  - Limiting the time allowed for funding prevocational exploration

# Findings from state interviews

# Changing fee schedules and allowable reimbursements for home- and community-based services under Medicaid waiver plans

- States changed reimbursement rates for employment services to increase incentives for competitive integrated employment and decrease incentives for work at subminimum wages.
- The changes raised rates for employment assistance like job development, skills training, job coaching, and supported employment services
- Revised rates helped shift funding away from facility-based services and toward community-based services
- Maryland stopped allowing Medicaid funds to be used at all for work at subminimum wages, and Oregon halted funding for jobs at sheltered workshops

# Defining day services as supports for moving toward employment

- States can redefine day services as supports for employment and strategies for building skills and interest in potential employment
- People with disabilities develop confidence and interest from community integrated day supports and activities like volunteering
- Example: The State of Iowa has an administrative rule that “clarifies that day habilitation services may provide a pathway to employment”

# Redefining work at subminimum wages as preparation for a job

- The goal is a job in an integrated setting that pays at least minimum wage
- For Iowa, this reframes work at subminimum wages as preparation for competitive integrated employment
- This has been a component of Iowa's successful efforts to reduce subminimum wages

# Increasing cooperation, coordination, and alignment among state agencies

- States agencies engage in formal coordination to increase competitive integrated employment and make employment the focus
- Cross-agency cooperation helps align vocational counseling, service plans, employment service supports, fee schedules, and other strategies
- States often use formal agreements involving divisions such as disability services, vocational rehabilitation services, Medicaid, and special education
- Examples of success:
  - Dual certification of employment service providers by the division for disability services and the division for vocational rehabilitation
  - Joint development of employment service definitions and a rate structure for reimbursement

# Encouraging or requiring partners at the local level to align with the state's focus on competitive integrated employment

- States cited work with partners to align the local approach with state efforts to reduce or eliminate use of subminimum wages
- Ohio established a Local Leaders project that provided funds and brought teams together to assess and plan for local Employment First approaches
- Maryland requires schools to engage in transition planning for the years after school beginning at age 14 and has rehabilitation services counselors work with students with intellectual disabilities two years before they exit school



# Limiting the time allowed for funding prevocational exploration

- Keep prevocational services focused on the shift to employment
- Avoid long-term prevocational services
- Example: Iowa limits Medicaid funding for prevocational services to 24 months

# A recap of what we covered

- A review of policies for how state governments operate to transition away from subminimum wages
- Six examples from interviews with Iowa, Maryland, Ohio, and Oregon
- Good examples for the task force to know about as it creates a transition plan for Minnesota
- Next: State of Minnesota experts talk about changes for laws, rules, and policies here in our state

# Task Force Discussion on Policy Options

# Subminimum Wage Law in Minnesota

Sara Ellstra | Program Administrative Director, Labor Standards

# Overview

- What is the Minnesota law on subminimum wage?
- What is the federal law on subminimum wage?
- How can Minnesota eliminate subminimum wage for workers with disabilities?

# Neutrality Statement from MNDLI

## **Purpose of this presentation:**

DLI is not making recommendations on whether Minnesota should end the use of subminimum wages. This presentation is to provide background information on the laws related to subminimum wage in Minnesota and what laws would need to change if the decision is made to eliminate subminimum wage in Minnesota.

# Minnesota's current laws on subminimum wage

[Minn. Stat. §177.28, Subd. 5](#) - **Rules regarding people with disabilities.**

This law directs the Minnesota Department of Labor & Industry (MNDLI) to issue rules “for the employment of disabled workers at wages lower than the wage rates applicable under Minnesota’s [minimum wage and overtime laws].”

# Minnesota's current laws on subminimum wage

## [Minn. R. 5200.0030](#) – **Subminimum Wage Rates for Workers with Disabilities**

- Permit required to pay disabled workers less than minimum wage under MN law
  - The subminimum wage rate is based on extent to which the worker's performance is limited. Performance is based on time study of workers with disabilities as compared to a time study of nondisabled workers in the same job.
  - The subminimum wage rate cannot fall below 50% of minimum wage (except if there is a US permit – more on next slide)
- Limit on for-profit organizations employing disabled workers at subminimum wage for more than 10% of its workforce. (exclusion for “rehabilitation facilities”)



# Minnesota's current laws on subminimum wage

*(continued)*

## [Minn. R. 5200.0030](#) – **Subminimum Wage Rates for Workers with Disabilities**

- Interaction with subminimum wage authorizations under federal law – 14c
  - USDOL permits authorizing subminimum wage rates are accepted by MNDLI in lieu of the permits required under Minnesota law.
- Current number of Minnesota subminimum wage permits: **0**

# Federal law on subminimum wage

## 14(c) Certificates

- Section 14(c) of the Fair Labor Standards Act authorizes employers, after receiving a certificate from the Wage and Hour Division, to pay special minimum wages — wages less than the Federal minimum wage — to workers who have disabilities for the work being performed.
- Employers who hire workers with disabilities who are paid subminimum wages must have been issued a certificate by the Wage and Hour Division.
- Source: <https://www.dol.gov/agencies/whd/special-employment>

# Federal law on subminimum wage

- 14(c) Certificate Holders.

- <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders>
- Employers in MN with 14(c) certificates:
  - Issued: **69**
  - Pending renewal: **4**
- Workers paid subminimum wage by these employers: **3,744**

# MN Law interaction with federal law

## Federal Administrator's Interpretation (No. 2016-20):

- States in part “Employers paying subminimum wage to workers with disabilities under section 14(c) certificates must pay these employees in accordance with both Federal and state laws. The issuance of a certificate under the provisions of section 14(c) of the FLSA does not excuse noncompliance with any state law establishing higher minimum wage requirements.”

**In short, having a 14(c ) does not excuse an employer from following state law.**

Source: [https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FLSAAI2016\\_2.pdf](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FLSAAI2016_2.pdf)

# What would need to change to eliminate subminimum wage in Minnesota?

- Repeal of [Minn. Stat. §177.28, Subd. 5](#), which directs MNDLI to make Rules allowing for subminimum wage
- Repeal of the subminimum wage rule (Minn. R. 5200.0030)

# Conclusion

If the Minnesota subminimum wage laws and rules are repealed, then everyone, including 14(c) certificate holders, would need to pay the higher state minimum wage.

## **2022 Minimum Wages in Minnesota:**

- Large employers (gross >\$500,00 annually): **\$10.33 / hour**
- Small employers (gross \$500,000 or less annually): **\$8.42 / hour**

# Thank You!

Sara Ellstra  
Sara.Ellstra@state.mn.us  
651-247-7345



## Task Force on Eliminating Subminimum Wages

Amanda Jensen-Stahl – Manager of Interagency Partnerships and Business Engagement



# DEED-VRS: state government policies (statute/laws/rules) that would have to change to eliminate subminimum wages

- [Extended Employment Rule](#) : MN Administrative Rules 3300.6000 – 3300.6070
  - Funding (3300.6035)
    - Subp 4. Cap on funding for certain employment
    - Subp 5. Center-based employment subprogram phaseout
- DEED-VRS would need to do a rule change (last rule change was 3/24/19)

# Policy options for state government operations that are important for shifting away from subminimum wages

- [Extended Employment Rule](#) : MN Administrative Rules 3300.6000 – 3300.6070
  - Funding (3300.6035): Subp 5. Center-based employment subprogram phaseout example
- (1) In fiscal year 2021, a provider's center-based employment subprogram contract allocation must be reduced by at least five percent of the provider's center-based employment subprogram fiscal year 2020 contract allocation.
- (2) In fiscal year 2022, a provider's center-based employment subprogram contract allocation must be reduced by at least 15 percent of the provider's center-based employment subprogram fiscal year 2020 contract allocation.

# EE rule center-based employment subprogram phaseout continued

- (3) In fiscal year 2023, a provider's center-based employment subprogram contract allocation must be reduced by at least 20 percent of the provider's center-based employment subprogram fiscal year 2020 contract allocation.
- (4) In fiscal year 2024, a provider's center-based employment subprogram contract allocation must be reduced by at least 25 percent of the provider's center-based employment subprogram fiscal year 2020 contract allocation.
- (5) In fiscal year 2025, a provider's center-based employment subprogram contract allocation must be reduced by at least 35 percent of the provider's center-based employment subprogram fiscal year 2020 contract allocation.
- (6) The commissioner must not provide funding to a provider for the center-based employment subprogram in fiscal year 2026 and later.

# Minnesota HCBS Services – Subminimum Wages

# Minnesota HCBS Waivers

- Minnesota developed HCBS waivers to meet the needs of people who choose to receive services and supports in their home or community, rather than in an institutional setting
- **Waiver plans:** Waivers are based on an agreement between DHS and the federal Centers for Medicare & Medicaid Services (CMS) that complies with federal requirements.
- **Community Based Services Manual (CBSM):** DHS guidance for lead agencies who administer HCBS. Each of the waiver employment services have a CBSM page that is based on Minnesota's waiver plans

# HCBS Waiver Employment Services

- Employment services that require competitive wages
  - Employment Exploration Services
  - Employment Development Services
- Employment services that stay silent on wages
  - Prevocational Services
  - Employment support services
- Wrap around supports
  - Day Support Services

# Prevocational Services – Applicable Language

- Prevocational Services
  - Help people advance towards competitively paid employment
  - People receiving Prevocational Services can explore and pursue competitively paid employment opportunities in community businesses at any time
  - Provided in provider controlled facilities and businesses
  - Waiver funds are for reimbursing service provider billing claims for providing assistive services and supports to people with disabilities. Waiver funds cannot be used as supplemental capital to directly finance service provider owned, controlled and operated business enterprises
  - Waiver funds cannot be used to compensate or supplement a person's wages.
  - People who begin receiving Prevocational Services on or after Jan. 1, 2021 can receive Prevocational Services for 3 years or 36 months.

# Employment Support Services

- Employment support services are to occur in integrated community settings.
- Employment support services involve opportunities and experiences for people receiving employment support services to have meaningful interactions with co-workers without disabilities and people in the community without disabilities.
- Employment support services cannot be provided in facility-based, day training and habilitation (DT&H) settings, prevocational service settings, structured day settings, or adult day service settings.
- Waiver funding does not cover payments:
  - Made to an employer as an incentive for participation in a person's employment support services;
  - Passed through to subsidize a person receiving employment support services;



# Compensation Language

- Both Prevocational Services and Employment Support Services require compliance with state and federal wage laws

*Wage and benefit compensation must be compliant with all applicable federal laws and regulations, as well as state statute and rules*

# Strategies for Addressing Subminimum Wages

- **Clarify role/importance of competitive employment & informed choice (current strategy):** Competitive employment is the first and preferred outcome of supports. Informed choices are required.
- **Incentivize competitive wages in waiver rates:** Provide higher reimbursements or incentives for employment at competitive wages
- **Place limitations (duration) on use of subminimum wages in waiver supports:** Prevocational services is time limited to three years already - employment support services has no time limit
- **Require competitive wages in service definitions:** Revise service definitions (either employment support services and/or prevocational services) to require any wages people receive supported by the service are at competitive wages

# Waiver Plan Amendments

- In order to make significant changes to waiver employment service definitions (such as requiring competitive wages), DHS would need to amend Minnesota's waiver plans with CMS
- Waiver plan amendments have multiple steps and require time to carry out
- Steps to carry out
  - Any needed changes to state statute (such as rate modifications or adding a service)
  - DHS revises waiver plan language
  - Amended waiver plan language is posted for public comment for at least 30 days
  - DHS submits amended waiver plan language for CMS approval
  - CMS reviews, asks questions/requests changes, and approves or denies

# Issue with addressing subminimum wages via waivers

- Waiver plans and waiver policy only address Minnesota's HCBS waiver services – not other programs and services
- Changing waiver plans does fully disallow the use of subminimum wages or ability of organizations to hold 14c certificates

# Questions?

Break...we will resume at 11:50.

# Processing and Vetting Policy Options

- Which policy options stand out and why?
- Which policy options do you have concerns about?
- Other comments?

Round robin format – all members comment

\*Member input today will be handed-off to work group

# Work groups expectations overview (1 of 2)

- Work groups will be used to develop recommendations to include in the task force's plan for eliminating subminimum wages in Minnesota.
- Different work groups will focus on the topics the Legislature has asked the task force to address and then present the results of their work back to the full task force for feedback.
- There is no requirement that task force members participate in the work groups.
  - If you are interested in participating, contact Jake Granholm from MAD ([Jacob.Granholm@state.mn.us](mailto:Jacob.Granholm@state.mn.us))



# Work groups expectations overview (2 of 2)

- Basic structure:
  - Groups comprised of willing task force members and other subject matter experts.
  - A group will begin its work following the introduction of a topic at a task force meeting.
  - Typically, groups will have about two months to develop recommendations.
  - With guidance from the task force, groups will meet at least two times outside of the full task force sessions.
  - MAD will provide facilitation and logistical support.
- First work group: Policy options (state statutes, laws, rules, initiatives)

# An Update on Engagement, Outreach, and Communications Activity

Public Sector Consultants

[www.publicsectorconsultants.com](http://www.publicsectorconsultants.com)

# Messaging

# Key Messages on Task Force Work



TASK FORCE  
MEMBERSHIP



TASK FORCE  
BACKGROUND



TASK FORCE  
PURPOSE



ENGAGEMENT  
STRATEGY



TIMELINE

# Engagement Contact Form


- What is its purpose?
  - To capture contact information for people who want to participate in engagement activities
- How can I share it with others?
  - Copy and paste the link
- Who manages and tracks the information?
  - Public Sector Consultants

# Engagement Contact Form



## Minnesota Department of Human Services Subminimum Wage Engagement

Thank you for your interest in informing Minnesota's plan if subminimum wage is eliminated. We appreciate your perspective and plan to hear from a wide range of people so that the plan can be as comprehensive as possible.

 [elammers@publicsectorconsultants.com](mailto:elammers@publicsectorconsultants.com) (not shared)   
[Switch account](#)

\* Required

First name \*

Your answer



# Social Media Package

- Platforms: Facebook, LinkedIn, Twitter
- Three sample social media posts per platform
- Framing based on task force key messaging
- Purpose: Direct people to resources
- Task force members will receive this document from Jake soon

# Engagement and Communications



# Key Lessons from Other States

Success stories in many formats—social media, videos, posters—were critical in all states.

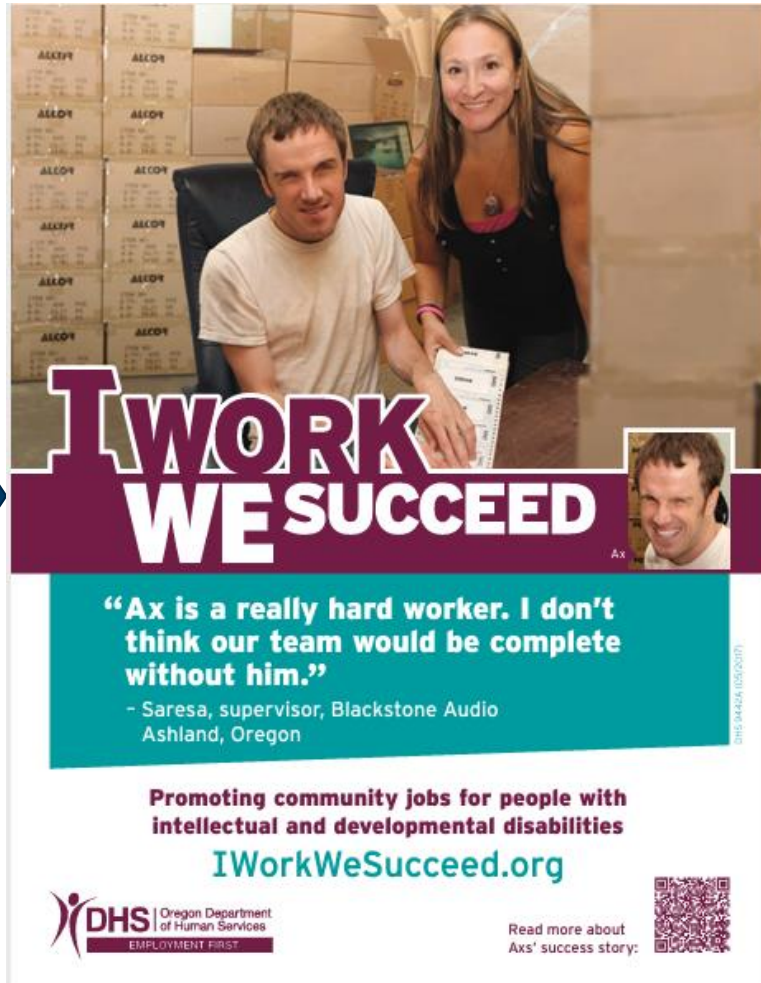
Peer-to-peer voices helped neutralize worries about change and helped create space for learning.

People with disabilities and their families or caregivers need to identify with the people sharing their experience.

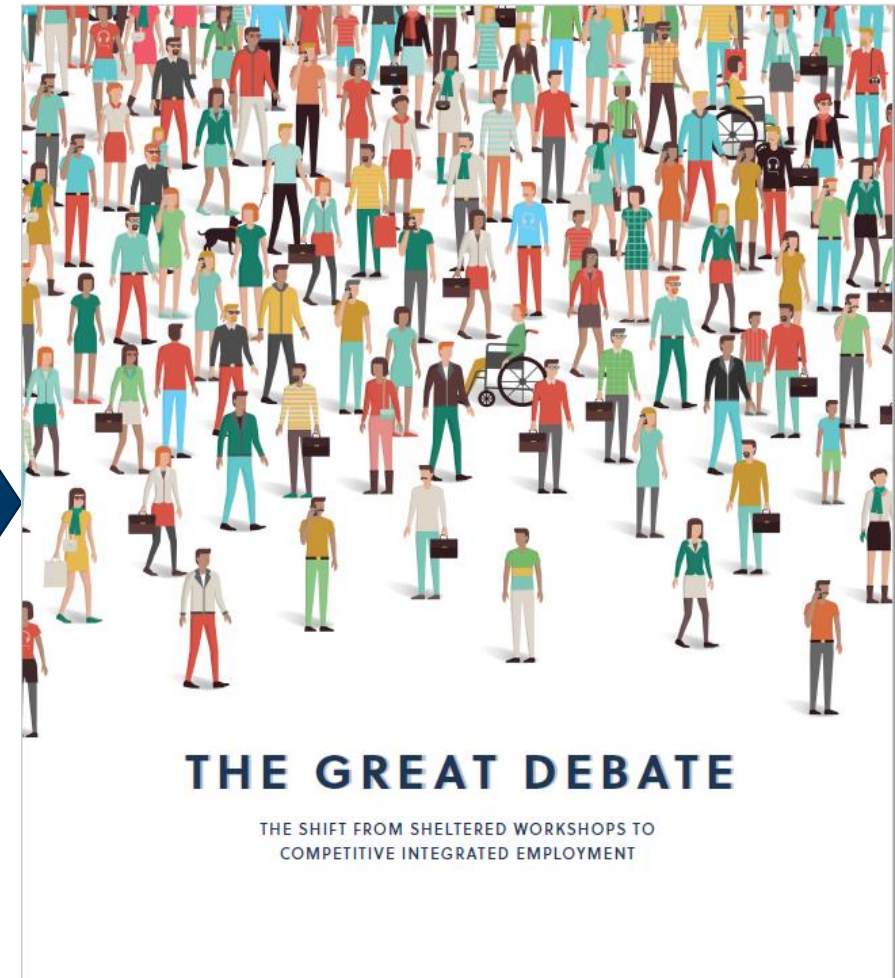
No other state had coordinated listening efforts during plan development.

# Communications Examples from Other States

Poster of employer testimonial (Oregon)



Publication about shifting to CIE (Iowa)



# Communications Examples from Other States (continued)

[Video testimonial from employer who hired people with disabilities in Oregon](#)



Safeway Employer Testimonial Baker City

1,45 LIKE DISLIKE SHARE DOWNLOAD CLIP SAVE ...

[Video testimonial from a parent of a son in CIE after time in a sheltered workshop](#)



Eric's Parent Testimonial

840 LIKE DISLIKE SHARE DOWNLOAD CLIP SAVE ...

# Engagement Plan Overview

- Background
  - Legislated engagement activities
  - Engagement objectives
  - Methodology
- Feedback channels and participant identification
  - Interviews, focus groups, listening and solution sessions, survey
    - Highlight why each stakeholder type is included and which engagement activities fit best
    - Identify what supporting materials will be developed for each activity
    - Distinguish key organizational partners and/or resources
    - Compile success indicators

# Engagement Activity Timeline

## May 2022

- Listening session
  - People with disabilities (**PWD**) earning subminimum wage, PWD in competitive integrated employment (**CIE**), families and caretakers of PWD, advocacy organizations
- Interviews
  - PWD earning subminimum wage, PWD in CIE, families of PWD, 14(C) certificate holders, service providers no longer using 14(C) certificates, advocacy organizations
- Focus groups
  - Families of PWD, advocacy organizations



# Engagement Activity Timeline (continued)

## June–August 2022

- Interviews
  - PWD earning subminimum wage, PWD in CIE, families of PWD, 14(C) certificate holders
- Focus groups
  - PWD earning subminimum wage, PWD in CIE, families of PWD, 14(C) certificate holders, advocacy organizations
- Survey
  - PWD earning subminimum wage, PWD in CIE, families of PWD, 14(C) certificate holders, advocacy organizations, service providers no longer using 14(C) certificates, federal/state/local agencies

# Engagement Activity Timeline (continued)

## September–early October 2022

- Solution sessions
  - PWD earning subminimum wage, PWD in CIE, families of PWD, 14(C) certificate holders, advocacy organizations, service providers no longer using 14(C) certificates

# Communications Plan Overview

- Background and purpose
- Establish audiences
  - Audience research (through listening)
  - Key messaging for primary and secondary audiences
  - Outline tactics and intended audiences for each message
  - Identify what deliverables will be developed for which message and audience
  - Compile success indicators and outreach measurements



# Communications and Education Activity Timeline

## May 2022

- Key messaging on the task force
- Task force branding
- FAQs about the task force and CIE
- Print and web resources
- Social media package
- OIO Lunch and Learn support

## June 2022

- Print and digital advertisements
- Social media posts
- Message testing
- Email campaign
- Resources for conversations about subminimum wage
- OIO Lunch and Learn support

# Communications Activity Timeline (continued)

## July–September 2022

- Print and digital advertisements
- Social media posts
- Social narratives and stories
- Message testing
- Email campaign
- Resources for conversations about subminimum wage
- On-demand webinar
- Interactive workshop

## October 2022 and Beyond

- Print and digital advertisements
- Social media posts
- Blog articles
- Message testing
- Email campaign
- Resources for conversations about subminimum wage
- Toolkits for transition grantees

# For Questions or Ideas



Melissa Jimison, [mjimison@publicsectorconsultants.com](mailto:mjimison@publicsectorconsultants.com)



Misty Elliott, [melliott@publicsectorconsultants.com](mailto:melliott@publicsectorconsultants.com)

- **Next task force meeting:** Tuesday, June 14, 2022 (on Zoom)
- **Task force work groups information:** more information will be sent from MAD
- **Opportunity for member feedback:** please complete the short member feedback survey.
- **Questions between meetings?:** Contact Jake Granholm (jacob.granholm@state.mn.us)

Thank you for your time today!