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CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

# SB 639 1<sup>st</sup> ANNUAL REPORT

Tracking the Transition out of the 14c Subminimum Wage Program

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January 2024

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## Executive Summary

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As an Employment First state, California begins with the assumption that all people with an intellectual and developmental disability (I/DD) who want to work can work and will be provided the necessary support to do their jobs. In 2022, SB 639 (Durazo) went into effect, ending California's participation in the federal 14c subminimum wage program waiver for persons with disabilities. This report is the first of three annual status updates on the transition of approximately 4,000 people (per the 2023 SCDD Multi-year Phase Out Plan) out of 14c subminimum wage and, if an individual chooses, into competitive integrated Employment (CIE).

Ideally, everyone will transition into a job earning minimum wage or above in an integrated setting (e.g., CIE). We will know how each transition progressed, where the individual transitioned, the barriers and challenges experienced, and the best practices used. Due to the size of the population, individual privacy rights, and unique challenges in gathering and sharing data across multiple departments and agencies, tracking persons with disabilities transitioning into CIE will require diligent collaboration and flexibility in what data is collected and how it is shared.

These are the highlights of this transition as of January 1, 2024:

1. The transition of 4,000 people out of 14c subminimum wage programs is happening and is on time. Approximately 2,000 individuals have left the 14c subminimum wage program since the enactment of SB 639. They are moving onto competitive integrated Employment or their choice for a meaningful day.
2. California is on track to complete that transition by the January 1, 2025, deadline.
3. Data integrity has been a core indicator for implementation; the departments have faced significant challenges in collecting and sharing data.
4. Subsequent reports will include more substantive information relating to the employment status of individuals.

## Introduction

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Federal and state laws passed in the late 1930s allowed employers to pay persons with disabilities less than the minimum pay wage (subminimum) and subjected them to segregated work settings. Approximately eighty-four years passed before Senate Bill (SB) 639 (Durazo, 2021) ended using special wage licenses for Employment at less than minimum wage. Now, state agencies must work together to provide employment services and transition more than 4,000 people with disabilities still employed through subminimum wage programs into minimum wage or above-paying jobs (i.e., competitive integrated employment).

The purpose of this annual report is to track the progress of the Multi-Year Subminimum Wage Phaseout Plan recommendations published by the State Council on Developmental Disabilities (SCDD) in January 2023 as required by SB 639 (Durazo, 2021, Chapter 339). The tracking includes elements such as the transition of individuals with disabilities out of subminimum wage, the coordination of services among different departments, and CIE services so that no employee with a disability earns less than the state minimum wage by January 1, 2025. This is the first annual report following the 2023 SB 639 Multi-year Phase Out Plan.

## Findings

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Overall, with one year until the January 2025 deadline to end the 14c subminimum wage program, there is a healthy combination of successes and challenges in implementing SB 639. Inter-departmental collaboration is well underway, and significant investments have been made to support the transition of approximately 4,000 people out of 14c programming, including incentives for service providers and regional centers, staff training for regional centers, and grant dollars to incentivize movement into competitive integrated Employment. About half of the persons with disabilities have transitioned out, consistent with the Multi-year Phase Out Plan benchmark. All individuals are anticipated to transition to CIE by the January 1, 2025, deadline.

Specific data collection and tracking of the transition to CIE, as required by SB 639, has been complex in implementation. The legislative bill calls for individual and aggregate data collection; however, there are notable challenges in implementing some of the data collection requirements. Barriers to data collection include a) departments collect varying sets of data, b) the data was never collected before, and a new process needs to be created, c) the data cannot be collected due to existing individual privacy rights laws, or d) the data is in the early stages of collection and is not yet available for reporting.

Data could be used to track people as they transition out of 14c work placements, where they go after 14c work placements, and which individuals enter competitive integrated Employment (CIE).

Implementation of data sharing among various agencies through an interagency agreement is also complicated and requires legislation to support the exchange, specifically for the California Department of Education (CDE), which, unlike the Department of Rehabilitation (DOR) and Department of Developmental Services (DDS), is not under the umbrella of the California Department of Health and Human Services.

The departments are making strides in ending the 14c program while navigating data challenges and investing in the transition of individuals into Employment.

## Background – Purpose of the Report

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[SB 639 \(Durazo, 2021\)](#) required the State Council on Developmental Disabilities (SCDD) to collaborate with other agencies to develop a **Multi-year Phaseout Plan** to pay any employee with a disability no less than the state minimum wage by January 1, 2025.<sup>1</sup> SCDD released the required phaseout plan in January 2023, which included planned benchmarks and recommendations on how to transition approximately 4000 persons with disabilities out of the subminimum wage program and to increase competitive integrated Employment (CIE) opportunities for people with disabilities. The following list includes some of those recommendations:

- Ensure collaboration between agencies so that services are easy to locate and navigate.
- Ensure there are enough trained staff, including job developers, coaches, service providers, etc., to avoid delays in service delivery.
- Reduce stigma around hiring individuals with disabilities. Private-sector employers will need to learn the benefits of inclusive hiring practices.
- Collect and share data among agencies to measure the success of services.
- Departments will create a **Transition Plan** by April 2023 (See Transition Plan page 7.)

SB 639 also required SCDD to submit three annual reports (years 2023, 2024, and 2025) to the legislature, tracking each individual's transition out of subminimum wage to CIE. Transition tracking includes:

- Providing status updates on accomplished activities from the benchmark recommendations in the SCDD Multi-year Phaseout Plan
- An accounting of the resources invested in the phaseout of the practice
- Recommendations for additional funding or resources necessary to implement the phaseout
- Collection of data

Data required by statute in this 2023 update is the following:<sup>2</sup>

1. Data collection and reporting requirements for tracking outcomes for individuals with disabilities who are transitioned out of subminimum wage employment:
  - Wages earned
  - Hours worked each month
  - Type of job
  - Length of Employment
  - Services utilized to obtain competitive integrated Employment.

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<sup>1</sup> [California State Legislature, Senate Bill 639 \(Durazo, 2021\)](#)

<sup>2</sup> [CA Labor Code §1191 \(d\)\(4\)\(5\)](#)

2. Data collection and reporting requirements that will track the following aggregate outcomes of individuals with disabilities who transition out of subminimum wage employment:
  - Total number of individuals with disabilities who are employed and paid subminimum wage.
  - Employment rates
  - The number of individuals participating in a subminimum wage position is not in job search activities.
  - The number of individuals who move from subminimum wage positions to nonpaying activities.
  - The number of individuals who move from subminimum wages to positions paid at or above minimum wage.

## Department Updates on Transition to CIE

The following data was received from DOR and DDS, state agencies that provide and coordinate employment services for persons with disabilities and developmental and intellectual disabilities (I/DD). Additionally, CDE provided an update on ending their subminimum wage program services or referrals.

### Transition Plan

The 2023 SB 639 Multi-year Phase Out Plan recommended DDS, DOR, and regional centers create a Transition Plan by April 2023 to identify barriers, solutions, and timelines, among other things.<sup>3</sup> Though DOR, DDS, and regional centers did not share a Transition Plan with SCDD, they are continuing to partner on developing a specific plan to phase out the use of subminimum wage licenses in California by January 1, 2025. Both agencies designated executive-level staff, one each from DDS and DOR, to spearhead the phaseout efforts and work collaboratively to develop a Transition Plan.

### DDS – Reductions in the Number of People in Subminimum Wage

Suppose adults with I/DD are not in high school but need support during Employment. In that case, they are referred to and assisted by their regional center, which is assigned by geographical area. DDS contracts with twenty-one (21) independent, non-profit regional centers in California that provide services to families and people with I/DD. Regional centers use vendors (or service providers) to provide specific employment services, which vary amongst the regional centers.

DDS collects Employment and wage-related data from regional centers, Work Activity Programs (WAP), and Supported Employment Programs Group (these are group employment programs, aka SEP-G) providers. Because SB 639 mandated certain employment data elements to be reported for the first time, a new system was launched

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<sup>3</sup> 2023 SB 639 [SCDD Multi-year Phase Out Plan](#), p. 21

in September 2023, with first reports due from the regional centers on October 15, 2023, and reports owing monthly after that.

DDS collects and analyzes data from regional centers that provide employment services to persons with intellectual and developmental disabilities (I/DD). DDS preliminary data results indicate that as of August 2023:

- Approximately 2,000 individuals earned sub-minimum wages in Work Activity Programs (WAP) or Supported Employment Programs (SEP-G).
- Approximately 1,400 individuals were in WAP. Of those, about 1,200 earned subminimum, and about 600 gained less than the federal minimum wage.
- Approximately 3,100 individuals were in SEP-G. About 800 earned a subminimum wage, and about 100 gained less than the federal minimum wage.

### DDS – Regional Centers and 14c Transition Barriers

Starting in August 2023, DDS initiated employment-focused meetings with the regional centers with more individuals in work programs earning subminimum wages to facilitate the transition out of subminimum wage and data collection. Discussions focused on regional center transition plans, barriers, communication with individuals/families and service providers, relationships with local DOR offices, and engagement with employment grantees.

### DDS – Service Providers and Wage Data Collection

Service providers are contractors with the regional center(s) who offer support services to regional center consumers. Support services include various employment supports, including job coaching and job placement. Despite requirements for service providers to report data, there needs to be more wage data from WAP and SEP-G programs. In July 2023, DDS sent correspondence to all WAP and SEP-G vendors, reminding them of the reporting requirements.

### DOR

DOR data for SFY 2022-2023 showed that DOR provided career counseling and information referral services to 2,446 individuals working in subminimum wage settings. Two hundred fifty of those individuals subsequently applied for vocational rehabilitation services. DOR continues to reach out to 14c certificate-holder employees. It encourages individuals to engage with DOR, DDS, regional centers, and community partners toward CIE.

Within the same period, 131 DOR consumers who had previously been receiving subminimum wages achieved CIE outcomes. The remainder continue to receive individualized Employment and related services toward achieving their CIE goals as outlined in their Individual Plan for Employment (IPE).

It is important to note that DOR and DDS are engaging the Labor Commissioner's Office's Division of Labor Standards Enforcement (DLSE), which is responsible under

the Labor Commissioner's Office for licensing subminimum wage providers in California, regarding the identification of individuals working in subminimum settings across the state. This can assist in gathering a more approximate number of persons still in subminimum wage employment.

## CDE

As of July 1, 2023, the Sonoma County Office of Education (SCOE) will no longer pay students a subminimum wage. The Department of Labor has officially closed SCOE's 14c certification. As such, the CDE has no sites that pay subminimum wage—all pay at least minimum wage. Students previously participating in subminimum wage programs began to receive minimum wage. The students were not exited from the programs; instead, the programs started paying minimum wage. With students now out of subminimum wage programs, they became eligible for other programs, funding sources, and work experience opportunities such as the DOR's Transition Partnership Program, WorkAbility I, and North Bay Regional Center Services.

## Resources Invested in Transition - Initiatives

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DDS and DOR continue to work on multiple initiatives related to Employment. Some of these activities include:

- **Paid Internship Program (PIP) and CIE Incentives (\$29 million):** The purpose of the PIP is to increase the vocational skills and abilities of individuals who choose, through the Individual Program Plan (IPP) process, to participate in a paid internship. CIE is full or part-time work for which an individual is paid minimum wage or higher in a setting with others who do not have disabilities. Incentive payments are paid to providers for placement and retention of regional center individuals, consistent with an individual's IPP.
- **DDS Employment Pilot (\$8 million):** This pilot will develop a new service to provide person-centered career planning (PCCP) via newly created career pathway navigators and customized employment specialists. This service will serve individuals earning subminimum wages in Work Activity Programs (WAP) and individuals exiting high school. The pilot is projected to launch in the winter of 2023-24.
- **DDS Employment Grants (\$10 million):** The Employment Grants Program aims to increase competitive integrated employment opportunities for individuals served by regional centers. Key grant priorities include utilizing new, innovative, best, or promising practices to support career pathways for youth and adults with intellectual and developmental disabilities and provide opportunities for CIE. Awarded grants were announced in December 2022, and projects were launched in January 2023. A total of 45 grants were awarded in the following focus areas:
  - Ten were awarded in Business Focused Practices
  - 14 in Employment Preparation, Services, and Supports
  - 3 in Service Models for Individuals with High Support Needs

- 5 in Service Model Transformation
- 13 in Training and Implementation - 10 for professionals and staff, and 3 for families, self-advocates, and youth
- **Quality Incentive Program (QIP):** The QIP is designed to improve consumer outcomes, service provider performance, and the quality of services overall. Participating service providers that meet or exceed quality measures developed by DDS with input from stakeholders are eligible for incentive payments. The QIP has six areas of focus, including Employment. The desired outcome is that individuals who want CIE to get employed.
- **Regional Center Performance Measures (RCPM) (\$2.6 million)** The RCPM is designed to incentivize regional center performance, quality, and outcomes related to CIE. The RCPM focuses on employment and measures about regional centers, increasing the number of CIE placements, collecting data points, and reporting for CIE.

## Implementation Challenges

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The challenges of creating and implementing a new data tracking system and collecting data from several groups have made it difficult for DDS to collect data. Systems through DDS, DOR, and CDE have legal and other barriers to collecting and sharing data, e.g., CDE needs legislation to share their data with other agencies, including CA Health and Human Services (CHHS) departments; some data required for this report is not collected by the departments, and some data is not collected by the regional centers or service providers. While preliminary efforts to collect data are underway to track the transition of people out of the subminimum wage programs, the specifics of that data are pending from the departments.

### CA Health and Human Services (CHHS)

Both DOR and DDS are agencies under CHHS. CHHS explains that individual privacy is safeguarded by many distinct federal and state regulations, diligently preserving the confidentiality of personal data. This intricate legal framework imposes constraints on information sharing at an individual level.

### DOR

The individual employment information reflects employment information from the first day of Employment through the date of record of services closure (exit from the program). It excludes all individuals earning or transitioning out of subminimum wage employment. See the chart below for data collected by DOR.

## DDS Data in the Process of Collecting

Effective October 2023, DDS began collecting the following monthly data from regional centers:

- (1) Did the individual transition out of the subminimum wage program?
- (2) New program name or blank/none if not receiving services
- (3) Vendor number of the new program
- (4) Service code (type of service)
- (5) Is the consumer participating in Employment?
- (6) List related employment-related services (PIP, CIE, etc.)
- (7) If yes, earning minimum wage or above?
  - How many hours are they working?
  - If not, are they participating in employment preparation?

## Agency Data Collected Versus Data Collection Required:

Below is a cross-analysis of data required by SB 639 versus data currently collected or not collected by agencies:

### People with disabilities that have (are) transitioned into CIE:

<b>Questions/Data Required</b>	<b>DDS Data Collection Yes/No</b>	<b>DOR Data Collection Yes/No</b>
<b>Wages earned</b>	No - DDS collects whether someone is earning minimum wage or above.	No-DOR does not track this data. For individuals enrolled in VR services, DOR collects data on the individual's hourly wages at the time of Employment before exit.
<b>Type of job</b>	No- DDS does not currently have a means for collecting this data.	No- DOR does not track this data. For individuals enrolled in VR services, DOR collects the individual's job title.
<b>How many hours are they working per month</b>	Yes- DDS has begun collecting this data from regional centers.	No- DOR does not track this data. For individuals enrolled in VR services, DOR collects data on the individual's hours worked in a week at the time of Employment before exit.
<b>What support services were provided during the transition</b>	Yes- DDS has begun collecting this from regional centers.	No- DOR does not track this data. Support Services can include counseling and guidance, supported Employment, customized Employment, short-term job support, travel training, vocational and post-secondary educational support related to the Individualized Plan for Employment, job search assistance,
<b>Length of Employment</b>	No- DDS does not currently have a means for collecting this data.	No- For individuals enrolled in VR services, DOR collects data on the start date of the individual's Employment but does not collect the length of Employment.

**People with disabilities that have not transitioned into CIE (aggregate outcomes):**

<b>Questions/Data Required</b>	<b>DDS Data Collection Yes/No/Maybe</b>	<b>DOR Data Collection Yes/No/Maybe</b>
<b>Number of individuals with disabilities who are employed and paid subminimum wage</b>	Yes- See #5 and #7 above.	No- DOR does not collect this data. DOR tracks the total number of individuals who receive DOR Career Counseling and Information Referral (CC&IR) services and are employed in SMW at the time of DOR VR service intake
<b>Employment rates</b>	Yes. DDS receives this data through data sharing with the Employment Development Department.	No- DOR does not collect this data. DOR tracks the number of individuals who receive CC&IR services, are employed in SMW during DOR VR service intake, and subsequently achieve CIE.
<b>Number of individuals who are participating in subminimum wage positions that are not participating in job search activities</b>	Yes. Data gathered via question #7 (above)	No- DOR does not collect this data. All individuals eligible for DOR services participate in job search activities to achieve CIE.
<b>Number of individuals who move from subminimum wage positions to nonpaying activities</b>	Yes. Data gathered by their questions #1 and #2 (above)	No-DOR does not collect this data.
<b>Several individuals transition from subminimum wage positions to positions paid at or above minimum wage.</b>	Yes. Data gathered via question #1 and question #7 (above)	No-DOR does not collect this data. DOR tracks the number of individuals who receive CC&IR services, are employed in SMW during DOR VR service intake, and subsequently achieve CIE.

SB 639 requires specific data to be collected to track the outcomes for persons with I/DD who are transitioned out of subminimum wage. DOR does not collect that data; DDS collects some of the data. DDS began its data collection in October 2023 and is unavailable for analysis. CDE closed all their subminimum wage programs but could not provide additional data tracking for each student accessing CIE services. Because departments did not collect the specified data, some transition outcomes for 2023 were not tracked as required by SB 639.

It is important to note that while the language in the statute is specific as to what data should be collected, it is unclear which departments should conduct the data collection, what the deadlines should be for collecting the data, and how often the data collection should occur. Furthermore, data sharing amongst the various departments is only a recommendation via the Multi-year Phase Out Plan, not a statute requirement. The newly created Office of Employment First could assist with coordination among agencies to collect data. (See section: **Benchmarks Met #3 Office of Employment First**).

## Benchmarks Met

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1. DOR reduced persons in subminimum wage by half.
2. CDE closed all subminimum wage programs or did not refer any persons with I/DD to subminimum wage programs starting July 1, 2023.
3. Creation of the **Office of Employment First**: The SB 639 Multi-year Phase Out Plan recommended California create some structure or a larger organizational entity to monitor the SB 639 goals that are external to individual public agencies to coordinate better and align employment services provided by different agencies to persons with intellectual and developmental disabilities. In 2023, SCDD successfully advocated for the creation and funding of the Employment First Office, which becomes operative on July 1, 2025. The purpose of the new office under the California Health and Human Services Agency is to, among other things, ensure coordination of all employment support services across all agencies and departments, avoid fragmentation of services, and guide strategic planning.<sup>4</sup>
4. Collaboration Between Agencies: SCDD Multi-year Phase Out Plan recommended agency collaboration for CIE transition to ensure employment services were easy to locate and navigate. There were several inter-department and agency collaborations in 2023. See the following collaborations:
  - Ongoing efforts between DDS and DOR ensure the alignment of rates for employment service providers between the two departments.

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<sup>4</sup> [Welfare and Institutions Code §4868.5](#)

- DOR and DDS are conducting in-person meetings with regional centers and the Department of Education staff to discuss best practices and practical considerations for scaling quality CIE services statewide.
- SCDD received the (National Expansion of Employment Opportunities Network) NEON grant from the US Department of Labor. The grant provides technical assistance in granting knowledge of subject matter experts to help agencies transition clients from below-minimum-wage jobs to minimum-wage jobs. SCDD, DOR, and DDS actively participate in the NEON grant to explore innovative CIE approaches and include value-based payment methodologies.
- This year, DOR and SCDD partnered to advocate for the Limited Examination Appointment Program (LEAP) State Internship Program (SIP) to become a permanent program. LEAP provides an alternative to the traditional civil service examination and appointment process to facilitate hiring persons with disabilities in state employment. LEAP (SIP) offers an alternate eligibility process for individuals with intellectual and developmental disabilities to become LEAP-certified.<sup>5</sup> A SIP intern can become LEAP certified in a state-eligible classification and apply for open state positions upon completing the 512 hours of an internship.<sup>6</sup> SIP interns receive wages during their internship through DDS and on-the-job support from a Community Rehabilitation Program funded by DOR. DOR facilitates coordination of the SIP with an interested state agency in collaboration with DDS and the California Department of Human Resources (CalHR).

## Recommendations

### Ongoing Funding for Disability Benefits 101

Many people with disabilities fear that if they go to work, they'll lose needed health care and other disability benefits. [Disability Benefits 101](#) (DB 101) is an online resource that helps people with disabilities and service providers understand the connections between work and benefits. DB 101 teaches individuals how their benefits are impacted by employment or income change. This program is effective and efficient, and the benefits exceed the relatively low cost to the state. Historically, DB 101 was paid for by private foundation funding, but that funding recently ended. We recommend the state invest in an ongoing appropriation.

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<sup>5</sup> What is LEAP SI<https://www.dor.ca.gov/Home/SIPP>

<sup>6</sup> [AB 121 2023 Budget Bill, Section 9 Amends Government Code §19242](#)

## Funding an Acuity-Based CIE Pilot

Subject Matter Experts recommended funding an acuity-based CIE pilot.<sup>7</sup> This pilot program would require best-practice job development strategies, systemic evaluation, and enhanced job retention support for people in the 14c settings. The pilot would include a tiered payment structure based on acuity to ensure those with the most significant support needs are served.

## Supplemental Data Collection Recommendations - Qualitative and Quantitative

Though SB 639 requires the collection of specific data to track the transition to CIE, there are additional qualitative and quantitative data that may identify where the challenges are in the transition to CIE, as well as gather more accurate data. Below are data questions that can collect additional data and improve data quality:

- Number of individuals that have already transitioned into CIE.
- Several individuals still need to transition into CIE and are paid below minimum wages.
- Number of individuals that transition out of below minimum wage jobs to CIE.
- Are clients actively referred to CIE (via high school or regional center)?
- Are there issues in attaining support services? If so, what are they, i.e., waiting lists?
- For regional centers: Do service providers experience issues in providing services? If so, what are they?

## Transition Coordination – CA Employment First Office

The newly formed California Employment First Office should coordinate with implementing departments on the final stages of the transition into Employment or other activities. Benefits of such coordination include consistency in data collection, consistency in implementation of best practices, and sharing lessons learned.

## Data Collection and Sharing

Statute requirements for data collection in 2023 were not met. The recommendation from the SB 639 Multi-year Phase Out Plan for agencies to share data still needs to be implemented. There are challenges related to collecting and sharing data across departments and agencies. Some departments and agencies have legal impediments to sharing data. All impacted agencies and departments should include a plan for the data collection and the data sharing challenges in their Transition Plan to ensure data collection requirements are met and to ensure accurate tracking of the transition to CIE.

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<sup>7</sup> [SB 639 Multi-year Phase Out Plan 2023, Appendix C.1. A National Subject Matter Expert's Discussion on Inclusive Employment](#)

As described above, the Employment First Office would be a well-positioned entity to gather department data in a centralized location for analysis and reporting; however, the Employment First Office will be operative on July 1, 2025.