

**Supported Decision-
Making
From Theory to Practice:
Vocational Rehabilitation**

Jonathan
Martinis

ARTICLE OF FAITH: SELF DETERMINATION

People with disabilities who exercise greater self-determination have a **better quality of life**, more independence, and more community integration.

- Powers et al., 2012; Shogren, Wehmeyer, Palmer, Rifenburg, & Little, 2014; Wehmeyer and Schwartz, 1997; Wehmeyer & Palmer, 2003

GETTING TO SELF-DETERMINATION: SUPPORTED DECISION-MAKING

“a recognized alternative to guardianship through which people with disabilities use friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions without the “need” for a guardian.”

- Blanck & Martinis, 2015

**SO, SUPPORTED DECISION-MAKING IS A
LOT OF WORDS FOR**

Getting help when its needed

Just like you and me

SUPPORTED DECISION-MAKING AND SELF DETERMINATION

“Supported Decision-Making has the potential to increase the self-determination of older adults and people with disabilities, encouraging and empowering them to reap the benefits from increased life control, independence, employment, and community integration”

- Blanck & Martinis, 2015

RESEARCH

In a study, young adults who used Supported Decision-Making showed:

- Increased independence, confidence, and decision-making abilities
 - Made better decisions
 - Had enhanced quality of life
- Martinis & Beadnell, 2021

<http://supporteddecisionmaking.org/node/488>

WHY SUPPORTED DECISION-MAKING?

Endorsed by:

- US Department on Health and Human Services
- American Bar Association
- National Guardianship Association
- ASAN
- The Arc
- NAMI

Article of Faith

Wouldn't it be Great:

If there was a program that could help provide ALL the benefits of Self Determination and it was available to ALL people with disabilities?

THERE IS:

Vocational Rehabilitation (VR) Services are:

“designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities . . . so that such individuals may prepare for and engage in gainful employment”

Rehabilitation Act of 1973, § 720(a)(2).

WHAT'S IT ALL ABOUT?

VR program provides services and supports to help people with disabilities:

“prepare for, secure, retain, advance in, or regain employment”

Rehabilitation Act, 2006, § 722 (a)(1)

WORK?

What does THAT have to do with
guardianship and Supported
Decision-Making?

WHAT IF...

The skills you need to work are
the SAME ones you need to
avoid guardianship?

WELL, THEN...

If you need something/**ANYTHING** to prepare for work, get a job, or keep a job, you can get it through the VR program

INCLUDING decision-making and self-determination skills!

THAT MEANS

VR programs have more potential to do more good for people with disabilities than just about any other program.

ELIGIBILITY FOR VR

Your are eligible for VR if you

- Have a disability
- Your disability makes it hard for you to work
- Want to Work

AND

- VR services will help you work.

If you receive SSI/SSDI you are **presumed eligible!**

34 CFR 361.42

IT'S HARD TO BE INELIGIBLE

If you have a disability, the VR agency must **presume you want to work.**

Before the VR agency can say that you are “too disabled” to work, they have to **give you a chance to work!**

You don't have to prove you can work, **they have to prove you can't!**

34 CFR 361.42

IN RHODE ISLAND

- VR is the Office of Rehabilitation Services, ORS
- ORS Website:
<https://ors.ri.gov/programs/vocational-rehabilitation-program>

APPLYING FOR VR

- Call VR Intake at (401) 421-7005 or RI Relay at 711 or
- Download application at <https://ors.ri.gov/programs/vocational-rehabilitation-program/apply>
- Return application to:
Office of Rehabilitation Services
40 Fountain Street
Providence, RI 02903

WHAT IS ORDER OF SELECTION?

ORS may tell you that they are on an “Order of Selection”

- An Order of Selection is when the Agency does not have enough funding to serve all applicants
- When an Agency is on an Order of Selection, they must prioritize who they will serve, based on severity of disability
- The Agency must serve those with the most severe disabilities first

ORDER OF SELECTION, CONTINUED

- An Order of Selection can be considered a “Waiting List” because if you are not in the category of people being served, you will have to wait until the Agency begins serving that category again
- Information on ORS and its Order of Selection, including FAQs, is here:
<https://ors.ri.gov/programs/vocational-rehabilitation-program/apply/order-selection-and-wait-list-faqs>

SHOULD I BOTHER APPLYING IF ORS HAS AN ORDER OF SELECTION?

YES

- Even if you have to “wait,” its best to have a spot in line so you’ll be served earlier when categories are open
- There are services ORS MUST provide EVEN WHEN it is on an Order of Selection including: information on available supports and referral to other agencies that may be able to help

ONCE YOU'RE FOUND ELIGIBLE: PLAN TO SUCCEED

The Individualized Plan for Employment
(IPE)

Lays out your employment goal – the job
you want to get.

34 CFR 361.46

NOT JUST ANY JOB

VR services are designed to help you get a job that fits **YOUR** skills and interests and **YOUR** choice!

34 CFR 361.46

YOUR JOB

Not just one of “the Four F” jobs:

- Food
- Filth
- Filing
- Flowers

THE PLAN

IPE lays out the services and supports you need to reach your goal.

34 CFR 361.46

YOUR TURN

What are some of the things that keep people with disabilities from working?

THINK BROADLY

VR COVERS A LOT

Some services that are available:

- Assessments
- Counseling
- Job search and retention services
- Assistive technology
- Medical and mental health care
- On the job training
- Job coaches
- Transportation
- “Maintenance” payments
- Services to family members (like Day Care!)

34 CFR 361.48

IF IT'S WORK RELATED, VR CAN PROVIDE IT

- Temporary Rent
- Clothing
- Therapy Services
- Dental Work

A BIG ONE

“Vocational and other training services , including the provision of personal and vocational adjustment services, books, tools, and other training materials”

34 CFR 361.48

WON'T WORK MAKE ME LOSE MY BENEFITS?

- Budgeting and money management are extremely important to people who receive public benefits like Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), and Medicaid.
- In general, you cannot have more than \$2,000 in money and assets if you receive benefits
- As a result, many people are afraid to work because they think they'll lose the medical and other supports they need to stay healthy and live independently. - Morris, Rodriguez, & Blanck, 2016.

BENEFITS PLANNING AND VR SUPPORTS

- VR agencies can provide *benefits counseling* to help people understand the impact working may have on their SSI, SSDI, Medicaid, and other public benefits.
- This can include budgeting, keeping track of your assets, and reporting income to SSA
- If you or someone you support are receiving public benefits and working with VR to find employment, you may want to ask the agency for benefits counseling as a part of an IPE.
- Benefits counselors are also known as Community Work Incentive Coordinators or CWICs
- You can ask VR to either provide benefits counseling or refer you to and pay for a CWIC

VR HELPS WITH MORE THAN “JUST” WORK

Self-Determination – Control of your OWN life

People with more Self-Determination are:

- More Independent
- More Integrated in their Communities
- Healthier
- Better Employed at Higher Wages!

WAIT A SECOND...

“This all sounds great, but what does it have to do with Supported Decision-Making?”

WELL, WHAT IS SUPPORTED DECISION- MAKING?

“[P]eople with disabilities use friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions.”

SDM IN ACTION: “INFORMED CHOICE”

ORS must ensure that the you can exercise
“informed choice”

“Informing each applicant and eligible individual . . . through appropriate modes of communication, about the availability of and opportunities to exercise informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice throughout the vocational rehabilitation process”

34 CFR 361.52

SOUND FAMILIAR?

Remember Self-Determination:

“causal agents . . . actors in their lives instead of being acted upon”

(Wehmeyer, Palmer, Agran, Mithaug, & Martin, 2000, p. 440).

**Informed Choice=Supported
Decision-Making=Self-
Determination**

VR AND SDM

The Informed Choice process VR *not only* provides education and training in SDM, but also empowers people to *practice* SDM

WHY IS THIS IMPORTANT?

Why are people put under guardianship?

Perception that people with disabilities and older adults cannot “take care of themselves in a manner that society believes is appropriate”

Kapp, M. (1999).

SO WHAT IF...

Inability to “take care of yourself” is what’s keeping you from working?

Employment-based “life skills” like:

- Self-care
- Organization
- Communication
- Interpersonal Skills

WAIT...HOW IS THAT AN EMPLOYMENT-BASED SKILL?

Would **YOU** hire or retain someone who has difficulty:

- Following directions or staying on task?
 - Communicating with you or your customers?
 - Getting along with co-workers?

THEREFORE...

If your “life skills” limitations are related to your disability and make it harder for you to prepare for, get, or keep work:

**ORS MUST PROVIDE SERVICES AND
SUPPORTS TO HELP OVERCOME
THEM**

How?

Through services and supports **YOU** choose to help you overcome the things keeping you from working – like:

- Technology
- Medical and Mental Health Care
- Education and Training programs

PUTTING IT TOGETHER

Work with ORS to:

- Identify jobs and job types matching your skills and interests.
- ID the things keeping you from preparing for, getting, or keeping that type of job
- Access the services – like “vocational and other training, including . . . personal and vocational adjustment services” - that can help overcome them.

WHILE YOU'RE DOING THAT...

- Gain the skills needed to become employed **AND**
- The skills needed to demonstrate the ability to “take care of themselves in a manner that society believes is appropriate” and avoid guardianship or be restored from guardianship

WHEN YOU AND VR DISAGREE

- ORS does not HAVE to approve your request for a job goal or supports
- ORS can say that your job goal is unreasonable or that the supports you want aren't necessary
- If they do, and you disagree, you have a right to file an appeal – 34 C.F.R. 361.57
- You MUST request the appeal within 30 days of the date of the decision you disagree with

APPEAL OPTIONS

- **Informal Administrative Review:** an informal process where you discuss your disagreement with an ORS supervisor. The supervisor will decide whether or not the decision was correct. The review must be held within 15 days of you requesting it.
- **Mediation:** ORS pays for an impartial, trained mediator to meet with you and ORS to try and resolve the dispute. Mediation must be offered if you request a Due Process Hearing. The mediation must be held within 15 days of you requesting it.
- **Impartial Due Process Hearing.** A trial before an impartial hearing officer. You and ORS will present evidence and argument where you have an opportunity to prove that ORS's decision was wrong and should be reversed. Hearing must be held within 60 days of you requesting it.
- **Director's Review:** if either you or ORS disagree with the decision by the hearing officer, you can ask the ORS Director to review it. The Director can only change the Hearing Officer's opinion if there is clear and convincing evidence that it is not consistent with VR law and regulations
- **Judicial Review:** If you disagree with the Director's decision, you can ask a Court to overturn it.

FILING YOUR APPEAL

- If you want to file an Appeal, it's a VERY good idea to talk with Disability Rights Rhode Island and its CAP Program
- When you file an Appeal, it should include an explanation of why you disagree with ORS' decision and what you want from ORS.
- If you are in need of an accommodation (e.g., an interpreter, large print, Braille, etc.), make sure you indicate that on your appeal request.
- Include your name, address, phone number, and your counselor's name and office location.

A VR STORY

VD v. RSA

- V.D. was an 18 Years Old High School Graduate with an Intellectual Disability
- He applied for VR in Washington DC through the Rehabilitation Services Administration (RSA), and they found him eligible
- RSA found that VD had limitations in
 - Interpersonal Skills
 - Organization
 - Self Care

V.D v. RSA

- V.D. said he wanted to be a Physical Therapist
- RSA agreed and that was his job goal
- Both sides agreed he needed additional training before he could work as a therapist
- VD identified a school in NY with specialized training

V.D. v. RSA

- V.D.'s school offered education and specific job training and opportunities in physical therapy during the day
- In the evenings and weekends the school taught life skills like self care, organization, using transportation, and communication
- V.D. asked RSA to approve and pay for the school to help him become employable

V.D. v. RSA

- RSA refused to approve and pay for it because, the school included “independent living skills programs...that are not specifically geared toward achieving an employment goal.”
- V.D. presented evidence that people with low independent living skills often did not find work or would lose jobs shortly after they were hired.
- So, to help students learn to get and keep jobs, the school also taught them ways to make good health, financial, and other decisions

VD v. RSA

- The Hearing Officer ruled that V.D. was right and ordered the VR agency to include the school in his IPE and pay for its services.
- The Hearing Officer ruled that V.D. needed “fundamental training in basic skills necessary to obtain and retain employment, before he can be a productive worker,”
- The school’s program, including its independent living skills training, would help him gain those skills.
- As a result, even though the school taught students health, financial, and interpersonal decision-making, those were “work and work-related skills

BRINGING SUPPORTS TOGETHER

SPED AND VR

- The Workforce Innovation and Opportunity Act requires VR to “significant emphasis on the provision of services to youth with disabilities” - U.S. Department of Education, 2014
- Federal law requires VR to become involved in Special Education services “as early as possible” - 34 C.F.R. § 361.22
- VR Agency MUST attend IEP meetings if invited – 34 C.F.R. § 361.48

COORDINATION: PRE-EMPLOYMENT TRANSITION SERVICES

- *Pre-ETS are available for ALL students with IEPs or 504 Plans*
- *Pre-ETS include:* :
 - Job exploration counseling;
 - Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;
 - Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
 - Workplace readiness training to develop social skills and independent living; and
 - Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

- 34 CFR 361.48

JOIN THE CONVERSATION

The National Resource Center for
Supported Decision-Making:
SupportedDecisionMaking.Org

The Burton Blatt Institute at Syracuse
University: www.bbi.syr.edu

Jonathan Martinis:
JGMartinisLLC@Gmail.Com