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17:48:26 Disability Rights Rhode Island SDM Webinar #3

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17:48:49 Communication Access Realtime Translation (CART) captioning is provided to facilitate communication accessibility. CART captioning and this realtime transcript may not be a totally verbatim recording of the proceedings.

18:04:15 >> MORNA MURRAY: Hello everyone. We are just waiting for people to come in from the waiting room and then we will get started.

18:04:52 Hello and welcome to session number three. Bruce, I will let you handle the waiting room just give me a thumbs up. Welcome to session 3 of the webinar series with Jonathan Martinis. We are thrilled you can join us tonight. We are thrilled to see people's names and not Bruce's name which happened last time by accident.

18:05:08 Tonight we will be talking about education, vocational rehab, and independent living. I am once again happy, and I will shorten introduction a little bit, to once again have Jonathan Martinis with us tonight.

18:05:30 Jonathan is the rare person who is both an expert in what he is talking about and actually does what he is talking about. He was just telling us a story about what he had done in court today in DC. It is fascinating. He is the senior Director of law and policy at the Burton Blatt Institute at Syracuse University.

18:05:51 He has authored more than 40 publications on Supported Decision-Making. He has trained all kinds of professionals in nearly 10 states around the country and more. He is a national expert. I think some of you have seen him being interviewed on national TV particularly with recent events.

18:06:12 We are thrilled to have Jonathan here and on a personal level not only am I happy to say he's a colleague but I'm happy to call him a friend. Thrilled to welcome him back to us in Rhode Island personally tonight. I will turn it over to Jonathan Martinis.

18:06:32 >> JONATHAN MARTINIS: That was an incredibly generous introduction. Thank you for coming back and thank you for joining us and what I'm calling the second presentation in our "how" presentation we had a first one talking about why supported decision-making is important.

18:06:44 We are talking about how you can use Supported Decision-Making in special education. Today is all about how you can use it in vocational rehabilitation.

18:07:01 Spoiler alert: vocational rehabilitation is my favorite program for people with disabilities. I say that knowing people across the country when they hear vocational rehabilitation roll their eyes and think they never do anything but they can help me.

18:07:15 What I want you to know today is you do not have to roll your eyes if you know your rights. I'm going to show you how vocational rehabilitation can have incredible impact on people's lives.

18:07:22 Not just about work but about independent living skills and quality of life. With that in mind let's begin.

18:07:37 As I have said this entire presentation as part of this entire series are ways to use supported decision-making and the supports and services that people with disabilities use every day.

18:07:55 As we did before, if you have questions, please put them in the chat box and Morna if you see a question that is interesting or pertinent, interrupt me. I want this to be as interactive as possible knowing that it is hard to be interactive we'll resume.

18:08:04 If it is important not to ask, it is important enough to interrupt me and we can get back to the slides after that. I promise I will stay as long as you have questions.

18:08:17 Beginning with an article of faith. I always like to begin with articles of faith. Things we know that we can empirically prove. We do not have to make them theory. They are fact.

18:08:43 People with disabilities who exercise more Self-Determination of a better quality of life. With regard to this presentation most importantly people with disabilities who have more Self-Determination, and remember, that means they have more control over their lives. People with more Self-Determination make more choices, they do more things. They are the causal actors in their lives.

18:08:54 What we know from decades of studies is people with disabilities who have more Self-Determination are more likely to work. And they are more likely to earn more money.

18:09:07 There are also more likely to be more independent, be better educated and have more community integration. For today remember Self-Determination equals greater employment opportunities and higher wages.

18:09:19 How can we get to Self-Determination? If Self-Determination is all about making choices, then a great way to get there is Supported Decision-Making.

18:09:41 Because Supported Decision-Making is all about making choices. On your screen is a big long definition that I told you I do not like very much even though I wrote it about how Supported Decision-Making is a recognized alternate where people work with friends, family members, and professionals to help them understand the situations and choices they face.

18:09:54 In actuality what you have to know about Supported Decision-Making is this. It's getting help when you need it for people you trust to do the things you have to do. In other words, is what we all do every day.

18:10:03 Zero doubt in my mind you have used supported decision-making today each and every one of you. I know for a fact I have used Supported Decision-Making multiple times today.

18:10:19 Because when we ask for advice, when we ask for assistance, when we ask someone to explain something to us, when we ask someone to research something with us, when we ask someone to help us solve a problem, we are using Supported Decision-Making.

18:10:26 Because we go to someone we trust to ask them to help us out, to help us understand something.

18:10:48 The best example I can give you is this. The last time I was qualified as an expert to testify in a use that quotes because till this day it's still kind of funny to me. I was asked what is Supported Decision-Making. I told the judge you just did it.

18:11:03 There was something you did not know. In this case what Supported Decision-Making is. You went to someone you felt did know that, me, and asked for help understanding it so you could understand it and do something with it.

18:11:22 That is what Supported Decision-Making is. And again think of all the clichés we have in our lives that are all about Supported Decision-Making. We tell each other don't make a snap judgment. Don't go off half cocked. We advise people to make an informed choice and make a second opinion.

18:11:30 It all means the same thing. Get the help you need to do the things you have to do. That is what Supported Decision-Making is all about. Here's what we know from research.

18:11:45 We know from research that has come in the last few years is when people with disabilities use Supported Decision-Making to make their own decisions instead of having people make decisions for them they are more self-determined.

18:12:00 That is hardly rocket science. If I am making my own decisions with the support instead of having someone else make decisions for me, I have more control over my life. I am making more choices and I'm more self-determined.

18:12:15 What do you know about Self-Determination? It is directly correlated to quality of life. That people with disabilities with more Self-Determination lead better lives, more independence, more education, employment, more community integration.

18:12:25 We just showed that in a study we completed at the end of 2020. I'm currently working on a journal article about it. You can see the published results at the link on your screen.

18:12:38 We worked with 10 young adults about intellectual disabilities and we talked about supported decision-making. We show them ways they could use it. We told them what it was and encouraged them to work with family members and supporters.

18:13:06 Then we said go do it and put it in place. We collected data for a year. Do you know what we found? It is not surprising. That the people who used Supported Decision-Making are more independent, confident, got better at making decisions and according to family members and friends made better decisions and even in the middle of the pandemic the majority said they were doing more things in their community and joining more clubs.

18:13:20 So supported decision-making is a way that we can get to Self-Determination and when we get to Self-Determination we get the benefits of Self-Determination like more work at more money.

18:13:32 That is why I can honestly say I have never seen anything take root in the disability community as fast or as deeply as Supported Decision-Making.

18:13:51 If you put in inflection point on when Supported Decision-Making hit the public consciousness it would be that Jenny Hatch case I told you about. She caught the public eye it was in People magazine and on TV and all that.

18:14:23 That was just in 2013. Just eight years 14 jurisdictions, 13 states and Washington DC including Rhode Island you have one of the best laws actually. They passed laws formally recognizing Supported Decision-Making. And all the organizations you see on the screen. The US Department of Health and Human Services, the American Bar Association, National Guardianship Association, like NAMI, ASAN, The Arc.

18:14:35 The AARP joined me on a brief about Supported Decision-Making. Across the ages they have all said Supported Decision-Making is something we should all try. Why? Because it makes people's lives better.

18:14:50 That is an introduction knowing how important Self-Determination is wouldn't it be great if there is a program that could provide all of the benefits of Self-Determination but was also available to all people with disabilities.

18:15:05 And I mean all I mean if you think about all the programs available to people with disabilities they're very often limited in scope. Special education you have to qualify for. You can have a disability, special education eligibility.

18:15:16 Medicaid waivers you have to be a specific level of disabled and have a specific level of income. For all of these incomes you have to meet qualifications.

18:15:26 Wouldn't it be great if there was a program open to every single person with a disability and provided all of the benefits we should about Self-Determination? There is.

18:15:43 It is called vocational rehabilitation. I am going to call vocational rehabilitation VR for the rest of this presentation because frankly it is easier. VR is vocational rehabilitation. What is VR?

18:16:05 It is a law that has been around formally since 1973. The actual first talk of vocational rehabilitation was after the Civil War. We have had the Rehabilitation Act since 1973. For those almost 50 years what vocational rehabilitation program has been focused on is helping people work.

18:16:28 That is the focus of the VR program. In fact, what the law says from the last update of the Rehabilitation Act is the whole job of VR is to provide support and services to help people with disabilities prepare for, secure, retain, advance in, or gain employment.

18:16:49 That means get ready to work, get a job, or get a job back. That is the thing about VR it will do one of those things that people with disabilities need assistance to prepare for a job, get a job, keep a job, advance in a job or get a job back then VR is there to provide support and services.

18:17:03 In fact, they are required to provide supports and services. First question, what does that have to do with what we have been talking about so far? We have had a bunch of talk about guardianship and supported decision-making.

18:17:06 What does that have to do with guardianship in supported decision-making?

18:17:24 What if the same things keeping you from working, keeping you from getting a job, advancement job are the same things pushing you into guardianship? What if they are the same things that stop you from quote unquote taking care of yourself?

18:17:35 If that is the case and you need something to work and that thing will also help you in life then VR is going to provide it. That means anything.

18:17:53 If you need assistance with your decision-making and self-determination skills because those are keeping you from getting a job, getting a job or advancing a job VR has to provide it. VR can do more things for more people than any other program because we can make anything about work.

18:18:08 Because if we want to work and there's something stopping us then VR is required to help us get the support and get the services we need to overcome what they call barriers to employment.

18:18:32 How do we get VR? This is another reason why I love the VR program. It is incredibly easy to be eligible for VR. You are eligible for VR if you have four things. One, you have a disability, any disability. Two, that disability makes it hard for you to work.

18:18:51 It puts a barrier. There's something related to that disability that makes it harder for you to work to keep a job, get a job, advance a job to maximize your employment potential. Three, you want to work. Four, there are VR services that help you do it.

18:19:10 I have been told by the federal government agency that oversees VR that means 98.5% of people with disabilities should be eligible for VR now. If you're receiving public benefits, you are presumed eligible.

18:19:33 That means they have to prove you make the first three of them. You are presumed to be eligible so anyone on Medicaid is presumed eligible for VR. It means you have to assume they can work. In fact it is really hard to be ineligible for VR because the regulations and you will note I'm putting regulation sites on every page.

18:20:00 That is important. The things I'm telling you are not theory. The things I'm telling you are coming directly from the Code of Federal Regulations. That is what CFR stands for. If you type in 34 CFR 361.42 you will see this criteria. If you look for it, you will find us.

18:20:10 If you have a disability, any disability, the agency has to presume you want to work. The agency cannot say you are too disabled to work.

18:20:22 If the agency thinks you might not be able to work that you might be too disabled to work, do you know what they have to do? They have to give you a chance to work. That is a thing called trial work experience.

18:20:30 If they think you might not have the skills or you might be too disabled as much as I hate that phrase to work they have to give you a chance to work.

18:20:37 They have to give you opportunities to develop the skills to work in an area that you had interest in.

18:20:51 By the way, in case you have ever had they are experience that does not mean they are allowed to send you to Goodwill to see if you can fold clothing. They are supposed to give you trial work experience in an area that matches your skills and interests.

18:21:03 If anyone ever tells you or someone you are working with I don't think you can work you seem to disable. You say give me trial work experience these are the things I like to do.

18:21:28 One more thing, to be eligible you don't have to prove you can work. They have to prove you can't or they have to serve you. In fact, they have to prove by what is called clear and convincing evidence. You heard beyond a reasonable doubt and law. It is the highest standard of our civil system.

18:21:33 VR has to prove you cannot work in order not to serve you. Here's a quick story about that.

18:21:59 I used to be the project Director of the program in Virginia that did advocacy for VR clients. It is called the client assistance program. And Disability Rights Rhode Island has an excellent one. In the Virginia program I was working with the young man who had intellectual disabilities and he applied for VR.

18:22:13 They said you are too disabled to work your IQ is 59. They said you can't work. We appealed it. We said you have to prove he can't work. You have never given him a chance to work.

18:22:20 My exhibit number one was his special education IEP which talked all about his volunteer work.

18:22:39 In other words, that he had worked. So of course we won that case. Because he could not prove VR did not even try to prove he cannot work. That is what I'm talking about why VR is such a great program when it's done right. Because you can get more things from it.

18:22:59 So in Rhode Island the VR agency, remember every state has one, the Rhode Island VR agency is the Office of Rehabilitation services or ORS. They have a website and the link is on your screen. You will be getting copies of this and of course you can show that.

18:23:07 That's where you can find it we can simply Google office of rehabilitation services Rhode Island and learn all about their systems.

18:23:35 If you go – if you want services for ORS and something I have to trust you, there is no age limit for VR. If you are 16 years old and you have a disability and you want to work, ORS should serve you. If you are 95 years old and you have a disability and you want to work, ORS should serve you.

18:23:59 There are programs that have age limits, special education is one. VR is not. VR is required to serve every person with a disability so long as they meet their criteria. Those four tests. I recommend to everyone that they apply for VR if they have a disability and want to work.

18:24:09 In Rhode Island here's how you do it. There is the telephone number and there is the application and you can mail it to ORS or just call and ask for an intake interview.

18:24:29 What happens in the intake interview typically is they want you to show you have a disability and you meet the criteria. It is not hard to do. You can do that by providing, for example if you get SSDI and award letter. If you are in special education you can show them an IEP or provide a letter from your doctor.

18:24:46 They are supposed to then assess whether you meet the four tests and remember they are supposed to presume that you want to work and if you are getting SSI or SSDI they have to presume you are eligible.

18:24:55 What if you are told you are on an order of selection. On the website there is a lot of information about the order of selection.

18:25:10 Here is what you need to know about that. Under the federal law the feds gift states money for VR and in return for this money you have to do what I said you have to serve all the people with disabilities to provide them with services.

18:25:30 When states run out of money, they are allowed to ask the feds to go on what is called an order of selection. It works this way. It allows the state to divide people with disabilities into categories from the most to the least disabled. And then prioritize who they are going to serve.

18:25:38 They are required to serve people with the most severe disabilities first when they are on an order of selection.

18:25:50 I looked up whether Rhode Island is on an order of selection and as of August of this year, which is the most recent federal records, they are not. All categories are open.

18:26:18 But if you are told they are on an order of selection it does not mean you should not apply. You should always apply for services even if they are on an order of selection and here's why. Number one, if it is a waiting list and you can characterize an order of selection as a waiting list because they are going to say we are only going to serve the most severe disabled first.

18:26:34 You have to wait till you get up to the top of the ladder if it's a waiting list you might as well get in line now. The categories will open as they get more funding. So absolutely apply. Also there are still things they have to give you when you are on order of selection.

18:26:47 Even if they say we are on an order of selection, and I do not believe they are right now based upon the federal information, but even if they are it is worth applying because there are things they still have to give you.

18:26:56 They still have to provide you with information. They still have to link you with other agencies that can help you to a doctor to provide referral services.

18:27:12 You can find more information on what ORS does with order of selection including frequently asked questions at the website on your screen. But I cannot stress this enough, whether or not they are on order of selection you should apply.

18:27:25 The worst that will happen is you will be on a waiting list. So absolutely you should. It is an absolute yes because the worst thing that happens is you are in line and you still get the things they are supposed to give you.

18:27:45 Once you are found eligible in the eligibility process is supposed to take 60 days. They can ask for more time but really if you provide the documentation that you have a disability and want to work it should go pretty quickly. I've had many people found eligible the same day they apply.

18:27:54 The first thing that will happen is you will be asked to complete an Individualized Plan for Employment or IPE. What it does it is like a roadmap.

18:28:13 Remember we talked about the IEP in special education last time. The IEP is the plan for education that sets off your goals and objectives and the things you will get in order to reach your goals. Think about the IPE as the same thing for employment.

18:28:28 The very first thing it does is you are asked to identify your employment goal. That is the job that you want VR to help you get. The area you want to work in.

18:28:42 So you get to work with VR and pick your employment goal. The reason that is important is it is your employment goal. It is a goal that matches your skills, your interests and your choice.

18:29:17 Far too often we hear about VR agencies pushing people with disabilities into certain types of jobs. I call them 4 F jobs. Food, filth, filing, flowers. Time after time they suggest people working food, janitorial, light office and retail. There is nothing wrong with that if that is what you want to do.

18:29:38 Unfortunately, I've had case after case where people are told they can work at Chipotle. I say if you want to work there that is great. If I can do more and have more skills and interests and have the ability to my clinical should match what I want to do.

18:30:00 VR does not have to support every employment goal you fix. If I go to VR and say I want to be a professional football player, they do not have to support that goal because it is inconceivable that I would be a professional football player. They do not have to agree to an appointment goal if it is impossible for you to get there.

18:30:09 But if you can reach that then they cannot say should do something else.

18:30:25 Here's my favorite story and that. When I was in the Virginia protection and advocacy system we had an attorney that worked for us was deaf. She went to VR and she said she wanted to be a lawyer. VR said that is a lot of time and a lot of money. How about we train you to be a paralegal.

18:30:32 She said no, I have the skills and aptitude to be a lawyer and I want you to support me to be a lawyer.

18:30:55 You know what she did she showed with her skills and grades she had the ability to be a lawyer and they had to support that quest because that was her job goal. Not only did you become a lawyer, not only was she really good lawyer last I heard she was a managing attorney in the Georgia Protection and Advocacy System fighting for other people to get appropriate supports.

18:31:05 That is the thing. Do not settle for a F job. Don't settle for a job that doesn't meet you and there is more that you can do.

18:31:18 Once you have agreed upon a job goal the next thing the IPE does is lay out the supports and services you need to get there. Again,

18:31:41 think about this as a roadmap. The end of the road is the job I want. What do I have to do to become a lawyer if I want to be one? Any college, law school, books, training, whatever I need. We are supposed to figure out what is in between me and that goal and the supports and services are supposed to be the ones that I need to get to the goal.

18:31:48 The IPE is quite literally a roadmap in the supports and services can be anything.

18:32:06 Think for a second. This is one of my favorite VR exercises. I always say think for a second what are some of the things that keep people from disabilities working. Think about what are the main things that stop people with disabilities from working.

18:32:20 I guarantee ten of you thought transportation. I have done this across the country and I have a stopwatch in my head when someone says transportation and it is always less than one second. VR can provide anything.

18:32:46 What you're seeing on the screen is from my favorite regulation and yes, I am geek enough to have a favorite regulation but I beg you to remember this one when it comes to VR. That regulation is 34 CFR 361.48. You can Google it, remember it by saying 34 CFR 361.48 is great. Here is why.

18:33:12 That regulation lays out all of the things that VR has to do. Has to do. I will show you some later but what you see on the screen is just a small list of some of the things they have to do. There is a list of about 22 different supports they must provide if those things are needed to help the person meet their job goal.

18:33:28 Look at what is there. Assessments to figure out what you need. Counseling to figure out how you will get there. Job search and retention services to help you find the right job. Assistive technology like computers and in some cases repairs and adaptations to your car.

18:33:44 Medical and mental health care if you need that including medications, including assistive technology and including durable medical equipment if that is what is stopping you from working. On-the-job training with job coaches.

18:33:59 And yes, the big one transportation. Everyone always says transportation is what stops people with disabilities from working. Under VR if transportation is what is standing in between you and working then they have to provide transportation to you.

18:34:05 That is correct. Whether that is a taxi. Finding you a driver.

18:34:26 They also have to provide services to your family if that is stopping you from working. If you need daycare because without daycare you can't work or services to an adult family member or elderly parent that is stopping you from working they have to provide it. All of this is under 34 CFR 361.48.

18:34:49 In fact the last one on that long list is anything else a person might need to work. These are just some of the things I have gotten people under VR. Not because I'm a genius mind you, but because I can read 34 CFR 361.48 makes this really really clear.

18:35:18 That regulation says anything else. I have gotten people temporary rent because it's hard to find a job with no fixed address. I've gotten VR to purchase clothing because it's hard to go through an interview if you have nothing to wear. We have gotten therapy I mean physical, mental, behavioral therapies because those were things in the person's way they were not able to regulate. In one case I got dental work.

18:35:43 That person was a quadriplegic and was able to type by having pen in his mouth and was able to type that way. He was able to be a data entry clerk but the problem was he had worn down his teeth with a pen. He was not able to get a job unless he was able to type. They had to pay for the restorative dental work.

18:35:54 If you can picture it and it will help you work, they have to provide you. The only thing I have ever heard they have not had to provide was like modifications to your house.

18:36:08 I have to tell you I would take on that case. If I needed a ramp to get out of my house to get my job, I would suggest that is a barrier to employment. That is the only thing I've heard that might not be able to be covered. Here is a big giant one.

18:36:25 This again in 34 CFR 361.48 vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials.

18:36:45 That means they have to pay for college if it is appropriate. That means if you pay for technical schools if appropriate. In the case of the person who needed it to pay for law school if it was appropriate because what is standing in between you and your job is training programs then they have to provide those training programs whatever they are.

18:37:10 Now, look, VR is not wishful fulfillment. You still have to prove the things you need are necessary to help you work. You cannot say something like I need college to learn life skills. VR loves to deny people who are looking for life skill programs. You have to tie it to skills you need to work and to work in your job goal.

18:37:12 Here is my example of that.

18:37:39 This covers two good VR examples. I had a client whose job goal was senior engineer. And VR agreed to that job goal senior engineer. It turns out he was

promoted to engineer. They said good news we do not have to serve you anymore you met your job goal. Not true. We said he wanted senior engineer.

18:37:49 It turned out that his company senior engineer required a Masters degree and advanced training. We said in order for him to meet his job goal he cannot get there without this training.

18:38:06 Now again not wish fulfillment. There is times when they are can say we are only going to be we want to see how much money you are making to see if we have to pay at all. It is called means testing.

18:38:14 If you get SSI or SSDI, if you get Medicaid or Medicare, they cannot do that.

18:38:32 If I am an 18-year-old and I just got on the waiver and I live with my parents and my parents make \$1 million a year it is still not me. I am getting Medicaid. They cannot say your parents make money so we are not going to serve you. I've actually litigated that one.

18:38:47 The thing to remember is this. 34 CFR 361.48 talks about all the things VR has to do. It has all the supports and services they have to provide and all the things they can do.

18:38:58 What you need to remember is if it is directly related to your job if it is going to help you get to that job goal, they have to provide it.

18:39:07 Subject to the limitations of money, you have to be means tested and that it is directly related to your job.

18:39:13 Because working is incredibly important because it is tied to quality of life.

18:39:37 This is an important point. This is a sad truth. I told you that people receive benefits like Medicare and Medicaid and SSI they are presumed eligible and VR especially has to help them work but the sad truth is so many people receiving benefits like SSI and SSDI are great to work. They are afraid.

18:40:00 They are rightly afraid because under federal law if you're on SSI, SSDI or Medicaid you're not supposed to have more than \$2000 to your name. It is what we call the fiscal cliff. So people are free to work because they think if I work and I have more than \$2000 at least my benefits.

18:40:17 There are things I need to be independent the healthcare and supports I need to be independent and I lose them if I work. So I have parents across the country saying my kid can't work because if I get works we will lose our benefits or he will lose his benefits or we will lose our healthcare.

18:40:32 So people that could work languish. I am here to tell you that VR will help with that. For people on benefits. One of the VR services is called benefits counseling.

18:40:55 The whole point of benefits counseling is to help people on benefits manage their money to make sure they don't go over the fiscal cliff. Or make sure they are properly getting credit for expenses that will help them work so it will not count against their benefits.

18:41:21 There are providers called Community Work Incentive Coordinator's or CWICs. The whole point is to help you manage your benefits and keep track of your expenses so one day you do not get the horrible letter from SSI that said we overpaid you by \$100,000, pay us back. I have seen that.

18:41:49 Disability Rights Rhode Island is a great program called protection and advocacy for beneficiaries of Social Security I used to manage that in Virginia. We would find people who were not working with CWICs and will get this bill. SSA would

say he earned all this money and you have to pay us back. We had a whole litigation practice on saying they had not earned too much money.

18:42:06 Work with VR, work with CWIC to help you work and keep your benefits. Work is about more than just work. And VR is more than just about work. It is about Self-Determination, controlling your path.

18:42:35 Remember we started this by saying Self-Determination is the key to better employment. The key to a better life. So VR should be all about Self-Determination because it's directly tied to work. So how can we make it do that? How does that have anything to do with Supported Decision-Making? Remember we tied Supported Decision-Making directly to Self-Determination and Self-Determination directly to work.

18:42:48 Think about what Supported Decision-Making is. Remember again working with your friends, working with your family members, working with people you trust so you understand your choices and can make your own decisions.

18:43:03 VR is all about that. In fact, VR is required to use Supported Decision-Making with you. They do not call it that. They are required to help you practice supported decision-making.

18:43:28 When you work with ORS they're required to use Supported Decision-Making with you. How do I know this? Because there is a regulation on it. All VR agencies are required to help you use informed choice. 34 CFR 361.52. Here is what informed choice is. The definition is on your screen and you can read it it's fine. I can do this even better.

18:43:57 I'm going to say Morna is my VR counselor. I am working with ORS. Her obligation under federal regulations is to help me understand my options. To go through the assessments and counseling. Maybe I don't know what job I want or what support they need. Her job is to explain to me what is available. To talk about what my interests and skills and abilities are and help me understand options about possible jobs.

18:44:17 Once we have the job goal lined up to figure out what the barriers are, figure out what the possible supports are, figure out what good providers are. The whole point of informed choice is that Morna, my counselor, helps me understand my options. My options for job goals. My options for supports and services.

18:44:26 Giving me the information in a way that I can understand it so that I can choose my job goal and I can choose my supports and services.

18:44:36 In other words, Morna provides the support and I decide. That is Supported Decision-Making. That is the definition of Supported Decision-Making.

18:44:42 So Supported Decision-Making is built in to the vocational rehabilitation system.

18:45:02 It is a key part of the voc rehab system. Since we know informed choice is just like Supported Decision-Making window Supported Decision-Making is correlated with Self-Determination and we know that Self-Determination leads to higher work, but higher work at more money.

18:45:15 We should be not just encouraging Supported Decision-Making. The VR system gives you a chance to practice it. And think about the benefits it can have in your life.

18:45:36 If you have an opportunity to practice Supported Decision-Making through VR. Get better at using decisions and working with people to understand your options,

that means you can use it in your life. That means you can use it in other situations, your healthcare. Our next presentation is all about using Supported Decision-Making in healthcare. You have a chance to get better at it.

18:45:47 Decision-making is a skill. Understand that. It is a skill. We all know that. The more opportunities we have to make decisions the better we get at it.

18:45:56 Having opportunities to make decisions through the VR process will give us a chance at making better decisions in life.

18:46:12 That is hugely important because people are put in guardianship because society believes they cannot make decisions. Society comes to the decision that people with disabilities cannot take care of themselves. They can make their own decisions. That leads directly to guardianship.

18:46:17 That is the standard for guardianship. You are incapable of managing your life.

18:46:29 What better way to show that you are capable and can make decisions than getting practice doing it through the VR system. It is a huge point.

18:46:54 Especially when you think about all the things that VR can do. Remember I asked you that question before. What if the same thing stopping you from working are the things pushing you into guardianship? What if you lack employment skills, job skills like self-care, job skills like organization and communication and interpersonal skills, one of those are the thing stopping me from working?

18:47:27 I have gone to VRs across the country and said help this person work because this person is terribly unorganized and does not take good care of himself. VR has told me they don't provide the services those life skills. If you want independent living skills go to a center for independent living. I've asked the same question of VRs across the country.

18:47:45 I've asked this question, and you can too, would you hire someone who is so disorganized they will not be able to follow your policies? Would you promote someone who takes such poor care of themselves that they are always getting sick, they are messing up your materials and getting co-workers sick?

18:48:08 Would you retain someone who has difficulty getting along and alienates coworkers and customers? Of course not. If the answer to that question is no you wouldn't then those things organization, self-care, communication, life skills are employment skills.

18:48:27 If they are employment skills, VR has to help you overcome those barriers. If you're barriers to employment are I don't get along with people, I have a disability and that makes me oppositional or defiant then VR is required to help you overcome it.

18:48:46 How can they help you overcome them? Remember 34 CFR 361.48. They can provide you medical and mental health care. They can provide you with counseling. They can provide you with therapy services. So yes, life skills that stop you from working are employment skills.

18:49:10 That is what VR can do. That is what ORS can do for you. Whatever your barrier is to implement ORS is supposed to, and in my opinion must, provide supports and services to help you overcome them. They do that through the informed choice process. Through services and supports you choose.

18:49:33 VR is all about your choice. It is all over the regulations. VR services must be consistent with the person's skills, abilities, preferences and informed choice. It is

things that you choose, the job goal that you choose, the services and supports and providers that you choose.

18:49:56 So VR is all about choice. You can work with ORS to help you identify the jobs that match your interests. You can identify the things getting there and you can access the supports the vocational and other training supports. The assistive technology, the medical and mental health care, the transportation and services to family members that help you get to your job.

18:50:29 So everything I have shown you I hope has shown you two things. ORS can help you work. Two, ORS can help you live. ORS can help you gain the support you need to take care of yourself, be independent and avoid guardianship. If guardianship is unnecessary, remember I have always said there is nothing wrong with guardianship when it's appropriate that we should be trying to avoid it when it's unnecessary.

18:50:48 When a person can take care of him or herself with appropriate supports, they should be getting those. The whole thing with VR, as with anything else, as we find the supports people need and VR can provide more and more ways and more times than any other program.

18:51:01 Sometimes you will disagree and I want to spend a couple minutes on this one because there are couple of fallacies you might come across with VR and I want to prepare you.

18:51:20 If you engine to don't agree you have the right to appeal. Let's say you want this job goal and VR says I don't think you can make that job goal work you can file an appeal and have a trial and ask the judge to overturn VR decision and make them serve you.

18:51:45 Here are a couple of biggies. You may hear from VR that they only have to serve you for 90 days. VRs across the country say our job is to help you find work in which you are successfully employed for 90 days we will close you. I want you to be aware of that. You might hear that. If you hear it, it is wrong.

18:52:09 The regulation says this. If one, you reach your job goal, two, you are satisfied with your job goal and three, you agree that you have met your job goal and it's going well then they may close you after 90 days.

18:52:26 That means if you have met your job goal but realize that is not the job goal for you that you are cut out for more they cannot close you. You have a veto effectively over closure if you have been working.

18:52:55 That is my example of the analyst, not engineer's job goal was a senior analyst and VR tried to close them. We sued. We went to appeal and said his job goal is senior analyst. You cannot close them until he meets that and he agrees it is appropriate.

18:53:20 I worked with a young woman who VR had the gall to say she maxed out her abilities as a dog walker. She was 22 years old and wanted to be a veterinary technician. They got her a job as a dog walker and in 90 days they said they we're closing you. We said the second job goal is veterinary care. She does not agree she has met her job goal.

18:53:44 They cannot clos her. The regulation says you have to agree. Two, you might also hear a policy about a thing called supported employment. Supported employment is a very intense VR service. It is for people who need a lot of help to work. It includes job coaching and much more. Supported employment is a big deal.

18:54:06 VR tells people you are only entitled to 180 days of supported employment. Once you have that you do not get it anymore unless you have a waiver. False. The regulation says you are only entitled to 180 days of supported employment unless you need more to retain your job.

18:54:42 So you have the option to say I need more and prove it. That is important because you will disagree with VR. VR across the country either don't know the Regulations for you don't know the regulations. So many times I had one case with VR from a person needed a sign language interpreter, she was deaf. VR said we don't provide sign language interpreters.

18:55:00 I blinked my eyes a couple times and said the last time I looked at 34 CFR 361.481 of the required services was interpreters. They went in the back and read it in a book because they were not computerized yet and they found it. You have to know better than them.

18:55:22 If VR says we are not going to support this job goal or we are not going to give you the support service you have the right to appeal. You have a right to say I disagree and I want to appeal that decision. VR has to give you a letter when they deny you in that letter has to tell you about your right to appeal and all the things you can do.

18:55:44 If you want to file an appeal, you have 30 days from that letter to do it and you have options when it comes to appeal. These should all be on that letter and everything I got here comes from ORS website. This is where I make a plug for Disability Rights Rhode Island. Their client assistance program can provide you with minimum information about this.

18:55:54 You have different levels of appeal. You can, if you want, do something informal like an administrative review were you basically ask a supervisor to review the decision.

18:56:05 The supervisor can say we got it right or we got it wrong. They have 15 days to do that. You can ask for mediation. People never do this enough.

18:56:23 If you and VR disagree you can say. ORS asked to bring in 1/3 party, a trained mediator to help work it out. They have 15 days to do that.

18:57:00 Or if you want the most I do is a trial. Hearing. You have a right to ask for an appeal for a trial, for a judge to make a decision of whether you are right or VR is right. I am in VR litigation over support and services. That is literally a trial. There's a judge, evidence and argument. The judge makes a decision that is either VR is right where you are right. After that everyone has the right to ask the VR Director to review that decision if they want.

18:57:06 The Director can say I think the judge got it wrong. They have to have clear and convincing evidence on that.

18:57:26 Finally you have the right to go to federal court. The last step in the process is judicial review. The due process hearing is before an administrative judge. Judicial review is an actual lawsuit in federal and sometimes state court. Those are the appeal options. It is important you know there are deadlines.

18:58:00 In general, you have to file one of the appeals within 30 days. VR is required to tell you about that. If you want to file an appeal and I have to say again it's a good idea to talk with Disability Rights Rhode Island. I'm not saying Disability Rights Rhode

Island will take every case that they can give you information for that. And ORS to provide you with an exclamation what to do if you want to appeal.

18:58:24 I was in a trial today where we had not one but four sign language interpreters. If you file an appeal what you want to do is tell VR here's the decision you may make a copy of the letter I disagree and I want to appeal. That should be all you have to do and then you pick you think. Don't want administrative review, do I want mediation or do I want due process.

18:59:04 Let me tell you a story that brings all this together it is a VR story. I worked with a young man named Vene. He was 19 years old and a high school graduate. He had an intellectual disability. He went to school in New York. Lived in Washington DC. After he graduates he comes back to DC. He applies for services for VR through DC's VR what is called the Rehabilitation Services Administration.

18:59:32 VR qualified him for services. They found the four things. He had a disability. He wanted to work. The disability caused a barrier to employment and they could help him. they came out and found that his barriers really had difficulty with interpersonal skills, and difficulty with self-care and difficulty with organization. Everyone agreed those were his barriers.

18:59:58 They said what you want to be? He said he wanted to be a physical therapist. That was his job goal. RSA agreed and said we think you could be a physical therapist but you will need additional training. You need to find additional training for this. Remember 34 CFR 361.48. Training is a required support. They said to him give us some ideas where you can find training.

19:00:29 He and his brother find another school in New York that does specialized training. it is a residential school that provides during the day job training and included internship opportunities where he could work in physical therapy office and during the nights and weekends provided life skills training to help people become more organized, better at communicating, to balance the budget and use transportation.

19:00:46 Everything was hunky-dory and everyone was on board for the school until they saw the bill. The bill was \$73,000 a year. He said I did everything you said I was supposed to do. I found the school.

19:01:10 The school was actually qualified provider on the DC system. It does exactly what I need. It provides physical therapy training and it helps me with the self-care things you said I am lacking so please approve and pay for the school under 34 CFR 361.48. RSA said no.

19:01:23 They refuse to pay at the last second after he had committed to attending the school and sign the contract. We went to trial on this. We appealed and went to an impartial due process hearing. Remember your options.

19:01:32 We first asked for mediation and that did not work out. We went to an impartial due process hearing. A full trial before an administrative law judge.

19:01:55 VR position was we should not have to pay for the school because the school provides life skills. That is not employment-based. Taking care of yourself and taking your meds and working on your hygiene and using transportation and balancing a budget is not related to work. Their life skills therefore we do not have to pay for the school.

19:02:22 We did a week of testimony about how those with the exact things he needed to work. In fact, remember they said his limitations were in organization and self-care.

We had people testify that Vene needed to be able to balance the budget for example to be able to maintain a job because if you go too far in debt you will not be able to work.

19:02:31 You cannot take care of yourself physically you will miss work and get fired. If you cannot use the bus system, you're not going to be able to get to work.

19:02:51 We had a whole case about whether those things are job skills. After a week in the whole thing took a year of the hearing officer ruled for us. The hearing officer said he was right. Because the hearing officer said that he needed fundamental training in basic skills necessary to get a job.

19:03:17 They said those things they provide, this independent living skills self-care, money management, transportation and medical care are exactly what he needs before he can work. Remember VR has to help you prepare to work. If you are not ready to work they have to help you get the skills you need to work. The judge said those things, those life skills are work in regulated.

19:03:32 Not only did the judge make them pay for the school they made them pay for the dorm. We were not even asking them to cover the room and board and they did because the judge said it is New York and you have to live up there and that is part of the program.

19:03:41 They had to pay \$73,000 a year for him to attend that school because he needed life skills.

19:04:06 I am not bragging, it was not done to tell a story. It was done to show you how all the VR things fit together. He needed help to get prepared to work. He applied for the VR program and was found eligible because he had a disability. It was preventing him from working because it prevented him from having self-care, organization and independent living skills.

19:04:31 He found under 34 CFR 361.48 the support he needed to get the job that matched his interests in skills and preferences that VR agreed was an appropriate career. Under the federal regulations the things he needs to get that job to overcome those barriers VR has to provide.

19:04:41 At the end when VR refused, he used his rights to file an appeal and did and won and I'm proud to say he is working today.

19:05:09 We can use VR to do all those things. I want you to know it's not just about work. VR fits with all the other supports. Our last presentation, next year will be about really how to bring together the supports and services. What I want you to know about VR is it helps people all through life and one of the places VR really helps I'm talking right now to parents of students with disabilities, VR can help so much in school.

19:05:31 VR is required to become involved in special education for students as early as possible. That means do not wait. Don't wait for the school to refer you. If you think your student can benefit from VR, go apply. I've had people apply at age 14 because that is when as early as possible is.

19:05:53 If you invite VR to your IEP meeting, they have to come. I have had VR across the country say we cannot make it we are busy. My new answer is Zoom. It is no longer a problem to make the meeting. The law says they have to come. For kids in school you have an amazing opportunity to use VR.

19:06:02 It is called pre-ETS. Or preemployment training services.

19:06:18 >> MORNA MURRAY: I thought it might be good to mention this comment from Linda Fleischer which a couple people must be thinking but he must have had enough intelligence to do that job. I am wondering if you can speak to that a bit?

19:06:31 >> JONATHAN MARTINIS: Sure. That is the whole point you have to have VR agree your job goal is appropriate. That is the interesting thing about his case. No one doubted he had the aptitude to be a physical therapist.

19:06:51 If he did not then VR could have said we are not going to support the job goal. He could have appealed that. Remember VR only has to support a job goal that they agree is appropriate for you or the judge makes it supported. This is a chance to use Supported Decision-Making to come together to pick the appropriate job goal.

19:07:13 That is based upon your skills and abilities. If, for example, I want to be a senior analyst and they are thinking analyst I need to go through the job skills that make up a senior analyst and show that I have the ability to meet them. It is why I do not like the F jobs unless the person truly wants it.

19:07:54 People with intellectual disabilities get pushed into these F jobs. If you want to work at Chipotle, it is great. People who love working with people get shunned into night janitorial work. To me that is a sin you have the right to say this fits my skills and abilities. You have a right to ask VR to do an assessment. In fact, I always asked them to do what is called a vocational evaluation to see what my skills and interests might correlate to in a job.

19:08:24 Yes, you do have to have the brains to do that job but when you do you should be given every opportunity to get the job. Now, pre-ETS again my favorite program in VR because of things like this. Where do we find pre-ETS? In my favorite regulation 34 CFR 361.48. The regulation that says everything VR must do.

19:08:55 Here's something amazing. The pre-ETS program requires VR to serve every single student with a disability of transition age so 14 or 16 and up. That means every student with an IEP. Every student with a 504 plan. VR is required to provide them with supports and services whether or not they have a case open with VR. VR is supposed to come to you.

19:09:13 Yes, I know often they do not do what they are supposed to and come to you. Look on your screen at what pre-ETS includes. Job exploration counseling. What kind of job might you be interested in based upon your interests, preferences and skills?

19:09:31 Work-based experiences in school, afterschool internships and training. Including integrated employment to the maximum extent possible. They have to help you find a job or find training programs to help you find work.

19:09:46 Counseling on opportunities for post secondary education. They have to help you get ready for college or post secondary education like vocational training school. Help you identify what might fit. They're like your guidance counselor.

19:10:10 Workplace readiness training to help you develop skills so you can be ready to work and that includes social skills and independent living skills. That means they're supposed to be teaching kids about interpersonal relations. About organization. About independent living. What is included in independent living? Self-Determination and decision-making.

19:10:23 Finally instruction in self advocacy. Ways to do Person Centered Planning. Including hooking you up with peer mentors who have been to the system and can help you get to the system.

19:10:30 This is the regulation that says if you invite them to an IEP they have to come.

19:10:41 >> MORNA MURRAY: Quick question why you're describing pre-ETS. Does pre-ETS work with dropout prevention as well?

19:10:57 >> JONATHAN MARTINIS: If you are in school and you have a disability 504 or IEP, they have to help you work. I would suspect that dropout prevention falls very nicely under counseling on opportunities with transition.

19:11:09 It falls very nicely on workplace readiness and self-advocacy skills. But you know what, dropout prevention includes if you stay in school you will find a better job and we will help you develop the skills.

19:11:23 It is possible someone is thinking about dropping out because they have not found the right supports and services because they have not found the right therapy for their social skills or have not gotten the right approach on how to advocate for themselves.

19:11:52 That is what pre-ETS should be doing. So many VRs say we provide pre-ETS by providing biweekly presentations. That is not pre-ETS. Look at your regulation that is what is required. I would consider going to VR and saying I want my kid to get this so when can your VR provide my son or daughter with social skills or independent living skills training?

19:12:15 Oh my goodness we don't do that. 34 CFR 361.48 says you do. I talked with a group of educators in Ohio about this yesterday and I said my God you should be demanding that VR come to your school. It takes pressure off teachers and for parents aiming to have two areas that can help you.

19:12:49 So yes, pre-ETS should be helping you across the board with the idea of being that we can use vocational rehab. That has been my whole goal for this hour. To show you all the ways VR can help. It is not just about work. It is about life, Self-Determination, independent living skills, social skills, avoiding unnecessary guardianship and yes, VR is about helping find the right job for you.

19:13:06 That is my email on your screen as always. I am happy to answer all questions you have for the rest of the night. Please remember my email because you may not have a question but one may hit you later and you can reach me at that address.

19:13:10 With that in mind what questions can I answer?

19:13:25 >>QUESTION FROM AUDIENCE: Can you hear me?

19:13:42 >> JONATHAN MARTINIS: Before you begin, John I saw a hand raised. I would suggest not to do the hand raise thing just ask your question.

19:14:13 >>QUESTION FROM AUDIENCE: Have a question about interruption of the VR process. Concrete example I have a son who was in VR and was going to go and become a college professor. He almost became that but the program he was in was dropped by the school and he got a job in some other field, became ill, and has been very seriously ill for 20 years.

19:14:32 Just last week he got a new kidney and kidney transplant and assuming that everything goes right he will be ready to work again in about a year, year and 1/2 from now.

19:14:46 In his case when he goes back to VR, will they look back and say we spent a lot of money on you already, sorry you had your one bite at the apple or will they just move him along?

19:15:10 >> JONATHAN MARTINIS: If they do, I would appeal the hell out of that. Let's put this in a different kind of light. Let's say I go to VR they helped me wonderfully and I meet my job goal and I agree I met my job goal and it's going great and a few years later I get in an accident and can no longer do that work.

19:15:37 I go back to VR and say I would like help getting a new job goal because I can no longer do the old one they cannot say tough we did you already. They have to serve every person that meets the four characteristics without regard to age. They cannot establish what is called a residency requirement like what county you live in. It is just those four things. The answer is no, they cannot do that.

19:15:44 >>QUESTION FROM AUDIENCE: Is criminal history a disqualifier to say you are incapable of working?

19:16:09 >> JONATHAN MARTINIS: No. The answer is no. What is my job goal is something I might be disqualified from because of my criminal history VR does not have to support it. So I have an unfortunate history that would disqualify me from being a direct support professional or working with kids VR does not have to support a job goal that I cannot get because of it. But absolutely not.

19:16:25 In fact, I have back in the day argued that VR should be directly involved in reentry programs to the community because work is part of reentry. Next question.

19:16:54 >>QUESTION FROM AUDIENCE: The program sounds fantastic. Yes, you need to know the law. That I have known for a long time, my son is 28. I cannot imagine a lot of this applying to someone who cannot read fluently and write fluently. The jobs that might be available to him might be those F jobs.

19:17:11 >> JONATHAN MARTINIS: They might be. There is nothing wrong with a 4 F job if that is what a person wants to do and that means his or her skills. Nothing wrong with that. What I am saying is just make sure your job goal is one that matches your skills and interests.

19:17:30 There are plenty of people who want to work in those positions. I'm not denigrating those positions. What I'm saying where the sin is, is when we assume people can only do those positions. The job should meet your skills and interests. There are some people who those jobs absolutely do. Nothing wrong with that.

19:17:36 Other questions?

19:17:51 Morna, would you like to tell them about CAP? I love that program.

19:18:13 >> MORNA MURRAY: I would love to invite Cathy to come on screen and talk about it. She heads up that program and does a phenomenal job. Cathy maybe you can unmute yourself and say a few words.

19:18:32 >> MS. SANSONETTI: I'm one of the attorneys in the office. I work a lot on the client assistance program or CAP. If you have questions, I'm happy to go over anything specific we have talked about tonight. There are some nuances that might apply to Rhode Island specifically or to your case specifically and we can help you with that.

19:18:45 Again we are free to talk, I am free to talk to. I also run the intake department so if you call and your issue comes in there should not be a lot of time before we are able to get back to you.

19:19:08 And then, of course, assess your situation. There have been some really good questions here from the audience tonight regarding pre-ETS reentry as well as some dropout prevention. Those are all really great questions and topics of interest and things we work on with the ORS agency to make sure they are covering the ground.

19:19:36 I am happy to talk to anyone who has a question. And to see if we can help you with your issue. If there is anyone that has a question now, I am happy to try and jump in. I don't want to steal Jonathan's amazing thunder here. I definitely agree with so much of what you have said, Jonathan. It is an excellent presentation. You mentioned some of my very favorite regulations as well.

19:19:44 >> JONATHAN MARTINIS: That's how you know you are a disability rights person you have favorite regulations. It makes us a lot of fun at parties.

19:20:25 >> MS. SANSONETTI: I think it does and I think people when they start to know they have rights I think you started this presentation by saying that VR does not sound like anything people like until they start to realize they have rights and they can harness those rights and use them to their advantage. Sometimes an advocate can help you with that and that is what we try to do. We are definitely in a small state. We can actually work with our VR agency pretty closely and we have a good working

19:20:33 Relationship with them without the need for things to go further. Anyone who has a question for us we are here for you.

19:21:06 >> JONATHAN MARTINIS: To those of you who came again, thank you. I would strongly encourage you to contact Catherine and Disability Rights Rhode Island and more questions about vocational rehab. I think it is a vastly underused service. I think it is one of the most important things for people with disabilities because it is easy to be eligible and it's so broad what it can do. I always say that vocational rehab is really the only program I know of that is required to maximize your potential.

19:21:29 I hear special education, specifically school attorneys, use this ridiculous phrase that we don't have to give you a Cadillac when it comes to special education. They love saying that. All we have to do is provide education benefits. We don't have to provide a catalog. I have more than once told the judge I don't want to get a Cadillac I want a car that runs.

19:21:51 In VR they have to kind of provide the Cadillac. They have to maximize your abilities. That job goal is the one that fits your abilities. They could not tell Julie she could only be a paralegal when she had the ability to be an attorney. VR can build you. You can have steps along the way.

19:22:19 I have argued with VR that there can be steppingstone jobs. If my skill needs to be up here, I can learn skills down here. Maybe a job at Chipotle will help me with customer service and personal skills while I build my abilities to get another job with higher responsibilities. VR ought to be able to help you do that. It is about finding the job that fits for you and the supports and services to help you get there.

19:22:55 Just a quick plug our next one is January 6. Our next presentation is going to be a how presentation. And specific for a broad term life planning. We will talk about Supported Decision-Making it comes to managing health throughout life and some money management issues. I think those are the two last frontiers for people with disabilities. The two ones people say they always can do. What about healthcare money?

19:23:12 We will talk about that Supported Decision-Making on January 6. With that I think and again I'm happy to answer more questions, but I don't want to keep anybody longer than they want to be here. Last chance, what else can we talk about?

19:23:19 I have answered all the questions and that's a compliment as well.

19:23:28 >> MORNA MURRAY: You certainly were highly informative as always, Jonathan, and also extremely inspirational. Thank you again.

19:23:35 We will have to wait an entire month for your next presentation, but we will be eagerly awaiting that.

19:23:43 We have the registration link up and I know Bruce will be sending it out to folks again.

19:23:51 We look forward to seeing you all on Thursday, January 6. Happy holidays everyone.

19:23:55 >> JONATHAN MARTINIS: Happy holidays and I will see you again next year.

(event ended at 7:24PM ET)