



June 15, 2015

Ms. Adele Gagliardi, Administrator
Office of Policy Development and Research
U.S. Department of Labor
200 Constitution Ave. NW, Room N-5641
Washington, DC 20210

To Whom It May Concern:

On behalf of the three programs funded under the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), we appreciate the opportunity to submit the following comments in regards to the Notice of Proposed Rule Making for State Vocational Rehabilitation Services Program, State Supported Employment Services Program; Limitations of Subminimum Wage (Docket ID:ED-2015-OSERS-0001).

For over 50 years, the central purpose of the DD Act has been to "assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent programs." The DD Act, and other federal statutes have been the driving force for people with developmental disabilities to have the opportunity to live, work, and recreate in their communities as equal and full members.

Each of the three programs funded under the DD Act have a unique role in carrying out the DD Act, the programs include:

The Councils on Developmental Disabilities work with policymakers and community partners, including people with developmental disabilities and their families, to achieve systemic changes through the creation of outstanding programs and services in all areas of community life including education, employment, health care, and recreation. The National Association of Councils on Developmental Disabilities (NACDD) is the national membership organization for the Councils on Developmental Disabilities appointed by Governors, and located in every state and territory.

The University Centers for Excellence in Developmental Disabilities (UCEDDs) provide pre-service preparation, services (including technical assistance, community education, and direct services), basic and applied research, and information dissemination. UCEDDs have played key roles in every major disability

initiative over the past four decades. Many issues, such as early intervention, health care, community-based services, inclusive and meaningful education, transition from school to work, employment, housing, assistive technology, and transportation have been directly benefited by the services, research, and training provided by UCEDDs.

The National Disability Rights Network (NDRN) is the national membership association for the Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies, the nationwide network of congressionally-mandated agencies that advocate on behalf of persons with disabilities in every state, the District of Columbia, Puerto Rico, U.S. territories (American Samoa, Guam, U.S. Virgin Islands, and the Northern Mariana Islands), and there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo and Piute Nations in the Four Corners region of the Southwest.

NDRN and the P&A / CAP network promote a society where people with disabilities exercise informed choice and self-determination. The P&A / CAP network has worked to protect the human and civil rights of individuals with disabilities of any age and in any setting. Collectively, the P&A / CAP agencies are the largest provider of legally-based advocacy services for persons with disabilities in the United States.

In addition to these comments, all three of the DD Act programs support many of the comments submitted by the Employment Taskforce of the Consortium for Citizens with Disabilities and the Collaboration to Self-Determination. As such, we have chosen to not include all of those comments in this document, but where we are especially supportive of a particular comment, we have included them below.

Thank you for considering our views. For more information,, please do not hesitate to contact:

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Overall, the DD Act partners are very supportive of these proposed regulations to implement the Workforce Innovation and Opportunity Act (WIOA). People with disabilities continue to be unemployed, underemployed and impoverished when compared to other diverse groups and the general population, despite being a vital and integral part of our society as recognized in the NPRM. The WIOA takes important and critical steps to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, inclusion, and integration into all aspects of society.

It is important to note that the WIOA is only one part of many significant efforts being taken by the federal, state and local governments toward this goal. For example:

- The ADA Amendments Act of 2008 returned the ADA to its original intent in regards to who is covered by the definition of disability and provided more guidance to employers about mitigating factors and entitlement to accommodations;
- The U.S. Department of Labor revised Section 503 of the Rehabilitation Act to require federal contractors and subcontractors to actively recruit, employ, train and promote qualified individuals with disabilities;
- The National Governor's Association developed recommendations and encouraged "employment first" policies to be developed and enacted in states; and
- There are bipartisan working groups currently working on updating the Social Security Act to make it easier for people to work or return to work.

The WIOA takes more significant steps in this effort to increase employment outcomes for people with disabilities by:

- Strengthening the alignment of the vocational rehabilitation (VR) program with other general workforce systems;
- Placing heightened emphasis throughout the Act on the achievement of competitive integrated employment; and
- Placing increased emphasis on the provision of services to students and youth with disabilities to ensure that they have meaningful opportunities to receive the training and other services they need to achieve successful outcomes in competitive, integrated employment and are not automatically referred to non-integrated settings with wages that are not livable.

The DD Partners believe that that these proposed regulations are strong and adhere to the intent of the Act. However, the DD Partners have a few recommendations that we believe will strengthen the proposed rule and/or clarify the intent of WIOA. In some places we simply comment our strong support for particular proposed comments. Our comments and suggestions are grouped by subject heading below.

Client Assistance Program (CAP) §370

- COMMENT: Given the additions of Sections 113 and 511 to the advocacy requirements of the CAPs, it is imperative that the implementing regulations reflect that the CAP staff have access to the records and documentation required under both Sections 113 and 511.
- COMMENT: The Protection and Advocacy System has the statutory authority, see 42 U.S.C. 15043(a)(2)(H), to unaccompanied access to locations where services are provided to individuals with disabilities to monitor for compliance with rights and safety, including to speak with the individuals. In addition, the P&A system may access an individual's records with consent, or in some circumstances without consent. P&As often face challenges to these authorities, in some cases requiring costly litigation in which the P&A system has been highly successful. The regulations should make clear that a P&A system has access to any entity covered under sections 113 and 511 to monitor for rights and safety compliance, which includes access to speak with individuals with disabilities, and to access records with the consent of an individual service recipient, parent or guardian.