

November 18, 2019

Acting Assistant Secretary Mark Shultz
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

Dear Acting Assistant Secretary Shultz,

The undersigned organizations write to welcome you to your new role as Acting Assistant Secretary of the Office of Special Education and Rehabilitative Services (OSERS), which oversees both the Office of Special Education programs (OSEP) and the Rehabilitative Services Administration (RSA) at the U.S. Department of Education. Our organizations stand ready to assist you as you carry out the mission of RSA, “to provide leadership and resources to assist state and other agencies in providing vocational rehabilitation (VR) and other services to individuals with disabilities to maximize their employment, independence and integration into the community and the competitive labor market.”

We know that your office is actively considering the future of the regulations implementing the Workforce Innovation and Opportunity Act (WIOA). Through the past three Unified Agendas, the Secretary of Education has notified the public of her intent to issue a notice of proposed rulemaking to amend the regulatory definitions in the WIOA implementing regulations, 34 CFR part 361. **The undersigned wish to unequivocally state that our groups are united in opposition of opening WIOA’s implementing regulations and believe such action would undermine the progress states and stakeholders are making in expanding opportunities for competitive integrated employment.**

As you know, WIOA was passed with overwhelming bipartisan support and represents the first major legislative reform of the public workforce system in 15 years. WIOA expresses a clear policy in support of competitive integrated employment: jobs where people with disabilities are paid the same wages, have the same opportunities for advancement, and work alongside their co-workers without disabilities. Among other provisions, WIOA defines an employment outcome as competitive integrated employment; prohibits the placement of students transitioning from school into segregated subminimum wage employment without having first had the opportunity to try competitive integrated employment; mandates pre-employment transition services to prepare students for competitive integrated employment; requires people in segregated subminimum wage settings to be offered competitive integrated employment; and requires that vocational rehabilitation services support competitive integrated employment outcomes. As directed by Congress, the Department of Education issued regulations implementing WIOA in August 2016. The WIOA regulations are very much aligned with both Congressional intent and long-standing Department of Education policy.

Despite the clear bipartisan support for WIOA, some members of Congress and stakeholders have raised some concerns about the regulations and urged that they be opened. In an effort to find a more sensible and less disruptive solution, numerous disability groups with a range of views came together to work in good faith to craft a consensus solution. Over twenty groups endorsed the

position in the March 7, 2018 [letter from the Consortium of Citizens with Disabilities Employment Task Force](#),¹ recommending that the Department address any confusion or misunderstanding about the regulations by providing technical assistance and making clarifying changes to its sub-regulatory guidance instead of opening up the regulations. Similarly, the National Council on Disability issued a [report](#) in October 2018 recommending that the WIOA regulations not be re-opened and instead that RSA provide technical assistance to state vocational rehabilitation agencies to address any confusion or misunderstanding about how to apply the regulations.² Likewise, the Senate Health, Education, Labor and Pension (HELP) Committee also issued a report making similar recommendations: “The regulations promulgated by the U.S. Department of Education should not be changed at this time. Technical assistance should be provided by the Rehabilitative Services Administration to support state-level implementation of the law and existing regulation.”³

The undersigned – which reflect a wide range of stakeholders from state agencies, to employment providers, to people with disabilities and their families – firmly believe that any confusion expressed by some in the field regarding the implementation of the current WIOA regulations can be addressed most effectively through technical assistance and, if necessary, clarifying sub-regulatory guidance, *not* through the opening up the regulations. We remain firm in our belief that opening the WIOA regulations will undermine the important progress that has been made in expanding opportunities for people with disabilities to work in competitive integrated employment.

As you review the WIOA regulations, we hope you will closely consider the information in these two reports and the views of the wide range of undersigned organizations that strongly oppose opening the regulations and encourage you to seek other options to address any areas of confusion or misinformation. The undersigned groups stand ready to engage in thoughtful dialogue with you and your staff about this option.

Please contact Alison Barkoff, Policy Advisor to the Collaboration to Promote Self Determination (abarkoff@cpr-us.org or 202-854-1270), Amanda Lowe, Senior Policy Analyst at the National Disability Rights Network (amanda.lowe@ndrn.org or 202-408-9514 ext. 101), or Rita Martin at the Council of State Administrators of Vocational Rehabilitation (rmartin@csavr.org or 301-519-8023) if you have any questions or to follow up on this letter.

Respectfully,

Cc: Secretary Betsy DeVos, U.S. Department of Education

¹ CCD letter available at <http://www.c-c-d.org/fichiers/CCD-ETTF-Letter-to-RSA-March-2018.pdf>.

²National Council on Disabilities, “From the New Deal to the Real Deal: Joining the Industries of the Future,” (Oct. 2018), available at https://www.ncd.gov/sites/default/files/New%20Deal%20to%20Real%20Deal%20FINAL_508.PDF.

³ Senate HELP Committee, “Disability Employment: Outdated Laws Leave People with Disabilities Behind in Today’s Economy, Minority Staff Report,” (Oct. 2018), available at https://www.murray.senate.gov/public/_cache/files/84084732-e011-470a-b246-1cdab87755c3/staff-report-on-employment-for-people-with-disabilities-10-29-2018-pm-pdf.