

I am the President and CEO of Beyond Vision, a non-profit Social Enterprise with the mission of providing employment opportunities for people who have vision loss and are blind. Our Vision statement which compels our work is to, "Enrich the lives of Americans who are blind...through the dignity of work valued by customers and the community."

Beyond Vision achieves our Vision by hiring people who are blind at all levels of the organization from direct jobs to professional executive staff positions. We use the metaphor that "Beyond Vision is a 'runway...it's a place to land and a place to take off in your career.'" Each and every mission employee is assisted in any way we can if they wish to seek skills training and development to aid in promotion seeking vertical mobility inside and/or outside our company. Our employees are able to find the "dignity of work" and support themselves, their families and the community at one of 9 locations we manage.

We do work for a variety of world class brands such as Harley-Davidson, Briggs and Stratton, GE, P&H Joy Global, CAT, Ariens, and Oshkosh Truck Corporation, to name a few. We have multiple contract with the Wisconsin State Use program. We also work with the National Industries for the Blind to pursue job growth opportunities through the AbilityOne program. I respectfully submit this public comment on behalf of the thousands of Americans who are legally blind working with the AbilityOne program.

The *"State Vocational Rehabilitation Services Program; State Supporter Employment Services Program; Limitations on Use of Subminimum Wage; Final Rule"* has negatively impacted our ability to receive either placements or referrals of individuals who are blind to fill good-paying, quality employment opportunities at Beyond Vision. The WIOA VR rule makes general blanket statements that pre-judge the AbilityOne Program and have resulted in several state VR agencies no longer working with AbilityOne nonprofit agencies, with a resultant loss of placements or even referrals from VR. Beyond Vision has seen a change with our relationships with the VR agencies in Wisconsin and Ohio.

Harmful Statements Regarding AbilityOne

To the matter of integrated work settings, and statements in the WIOA VR rule that pre-judge the work done within our program, here are just a few examples of just such statements:

*"When the criteria are properly applied by DSUs, group and enclave employment settings operated by businesses formed for employing individuals with disabilities **will not** [emphasis added] satisfy the definition of "competitive integrated employment."*

*"Therefore, the Secretary maintains the long-standing Departmental policy that settings established by community rehabilitation programs specifically for the purpose of employing individuals with disabilities (e.g., sheltered workshops) **do not** [emphasis added] constitute integrated settings because these settings are not typically found in the competitive labor market – the first of two criteria that must be satisfied if a DSU is to determine that a work setting is an integrated location under final 361.5 (c) (9)."*

"The factors that generally would result in a business being considered "not typically found in the community," include: (1) the funding of positions through Javits-Wagner-O'Day Act (JWOD) contracts; (2) allowances under the FLSA for compensatory subminimum wages; and (3) compliance with a mandated direct labor-hour ratio of persons with disabilities."

But, even with these categorical statements that pre-judge our program and the employment opportunities we provide, later in the very same rule the Department reminds state VR agencies they must still examine each job and decide on a case-by-case basis:

“We emphasize that it is the DSU’s responsibility to apply final 361.5 (c) (9) (ii) in a manner consistent with long-standing Departmental policy. The DSU must apply the criteria equally to any position, whether it involves the management or administration of, or the production and delivery of goods and services by, the organization, and without regard to the type of business operation, such as, but limited to, a call center within a community rehabilitation program, the manufacture of office supplies by a State industries program for individuals who are blind, or a contract for landscaping services. The criteria contained in final 361.5 (c) (9) (ii) and 361.5 (c) (32) (ii) provide important clarifications that are necessary to better enable a DSU to determine, on a case-by-case basis, whether or a particular position in an organization’s specific work unit is in an integrated location.”

These statements paint agencies with AbilityOne or state use contracts with a “broad brush.” It assumes that all AbilityOne affiliated non-profit agencies operate like community based rehabilitation programs or sheltered workshops. The rule does not consider progressive entities like Beyond Vision that have been able to leverage the AbilityOne and state use programs to create good paying jobs, transform to competitive and integrated work environments, and provide paths of upward mobility for people who are blind or visually impaired.

Some of the negative impact of this rule that we have observed:

- Employees in Wisconsin and Ohio having VR services cut off completely.
- No more trial work experiences in Wisconsin
- No more referrals from VR agencies or job placement partners.
- The elimination of “informed choice” for VR consumers who are blind or visually impaired.

We recommend that the Department of Education revise these rules and take a more realistic and modern day viewpoint of the AbilityOne Program. Individual jobs and individual NPA’s should be evaluated on a case-by-case basis and not with the broadly generalized and misguided WIOA VR regulation language noted.

Respectfully submitted,

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President & CEO
Beyond Vision