

MARVA Workshop, Inc.

Mid-Arkansas River Valley Abilities

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September 20, 2017

Ms. Hilary Malawer, Esq.
Assistant General Counsel
Office of General Counsel
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Docket ID-2017-OS-0074-0001

Dear Ms. Malawer,

I am commenting on Regulation ID: ED-2015-OSERS-001-1167, State Vocational Rehabilitation Services Program; State Supported Employment Services Program; Limitations on Use of Sub-minimum Wage. These may be well-intended regulations, but they are creating an undue employment hardship on some individuals that have the most severe disabilities. The regulations are meant to create opportunities, but in reality they restrict viable options for this deserving group by issuing a very limited definition of acceptable employment environments for people with disabilities.

Different folks thrive in different surroundings. Our individuals with severe disabilities, like many others across the nation, have found the "sheltered" environment a place where they experience consistent acceptance, respect, purpose, a sense of belonging, safety, and other positive attributes. I understand this environment is not for everyone. It is our job to help each person in our program to determine what works best for them as a unique individual. Sometimes the individual's goal is accomplished in the workshop setting, other times through competitive integrated employment, but we believe it is a choice that should be made by the individual. We want to facilitate a successful outcome for each individual in the way they define success.

In general, people who receive W-2 forms at the end of the year are considered employees by many government agencies like the IRS and DOL. However, now with the definition of "competitive integrated employment" (34 CFR 361.5(c)(9)) being discriminately narrowed, the future of the employer/employee relationship in our setting, a "sheltered workshop," has been threatened.

"Serving People Since 1972"

I respectfully encourage the Department to expand the current competitive integrated employment definition. Consideration should be given to those sheltered workshops that have followed the rules and provided meaningful employment opportunities to individuals in their local communities, especially in rural America. By restricting opportunities for employment, individuals with the most severe disabilities are the ones who will be left without meaningful work opportunities. Many workers (and families) in this group have no idea of the major life changes that are looming if advocates cannot effect change in the current regulations.

The workers of MARVA display a sense of dignity and pride in having a job. It is common to see our individuals “beam from ear-to-ear” when given the opportunity to describe the task they are doing. Our people also “LOVE” to tell visitors how long they have maintained “their job.” We need to provide and preserve a full array of choices that includes the “sheltered environment” for those that thrive best in special settings.

Section 511 of the Workforce Innovation and Opportunity Act (WIOA) also has some problematic interpretations that are severely limiting choice to our young people with disabilities. Some state VR agencies are taking a hard-line stance holding to the ideal that “every individual is able and needs to work in the community,” even if it is only for a couple of hours per week. For some this may be acceptable, but for the young person who is excited about working, it is totally unacceptable. VR should have the authority to defer to the choice of the individual.

Another frustration that has come to light since the enactment of WIOA is for the group who has just graduated from high school, but is still under the age of 25. This group is prohibited from earning wages under a 14c certificate. CRPs must refer these individuals to VR even though the individual (and/or family) has had enough experience and information to be confident that working “at a regular job” is not best in their circumstances. In these cases, the individual is generally left with the choice of attending a “day program” or sitting at home until they are age 25. If the person’s goal is to work, this is another objectionable situation. Again, VR should have the authority to defer to the choice of the individual. What is considered best or “beneficial” for each individual in their daily lives should be defined by the individual (and/or their families). They are the ones who thoroughly know their own needs and desires.

I am also concerned about potential civil rights issues in regards to young people with disabilities. In the United States an individual is considered an adult and is given the privilege to vote at age 18. However now, under WIOA, a person with a disability and under 25 years of age has restrictions as to where he/she is allowed to work. Because of their age and the fact they have a disability, these young adults are only allowed “to work under a 14c certificate” if they meet specific rigid requirements. Some state VR agencies are electing to enforce a painfully strict adherence to the requirements, while others are being more flexible. To minimize the appearance of “reverse” discrimination or potential challenges to civil rights, please direct VR agencies to be more workable in

situations where the individual has been provided options, but still desires to work under a 14c certificate. This is informed choice.

Again, the overall focus should be to provide a full array of choices that enable individuals with disabilities to find an employment setting that meets their unique individual requirements. Regulations do not need to be enacted that remove viable options that many people have found to be a good fit for their needs and desires.

For example, one of our guys (Ron) has worked at our center for over 20 years. Prior to working at MARVA, he experienced failure over and over. He had been fired at least 10 times from various jobs. He was broke, discouraged, homeless, and desperate. Turning to his mother, she directed him to MARVA. Today Ron will quickly tell you,

"Since working at MARVA my life has never been the same!" (MARVA)...helped me be independent and encouraged me to feel a sense of worth. I plan to work at MARVA for many years to come. I don't ever want to get fired again!"

Ron found what worked for him. He lives in his own house, drives his own vehicle, pays his bills and taxes, and has a social life, but many Subject Matter Experts (SME) would say this is not successful employment because it occurs at a "sheltered workshop." They would suggest that he is not experiencing the quality of life available to him through competitive integrated employment. They have a right to their opinion, but you will NOT convince Ron or his family that he should consider "other options." We believe the view and values of Ron and of those in similar situations should carry more value than the beliefs of SMEs. Please expand opportunities and allow individuals with disabilities to define success in their own terms.

In the last 40 years, I have seen extraordinary progress in attitudes toward, and services and protection for individuals with disabilities. However, this current mindset that everyone has the ability (and *should*) work in competitive integrated employment is a step backwards in regards to a large number of individuals with the most severe disabilities. Please protect and defend a full array of choices where the needs and desires of all individuals with disabilities are served.

Thank you for your consideration.

Sincerely,



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