

September 11, 2017

Ms. Hilary Malawer
Assistant General Counsel, Office of the General Counsel
U.S. Department of Education
400 Maryland Ave SW, Room 6E231
Washington, DC 20202

Via electronic submission at <http://www.regulations.gov>

Re: Docket ID: ED-2017-OS-0074

Dear Ms. Malawer:

Our comment is in regards to regulations and sub-regulatory guidance issued by the U.S. Department of Education (DoEd), Rehabilitation Services Administration (RSA) for the purpose of implementing the integrated settings criteria under the definition of competitive integrated employment [34 CFR §361.5(c)(9)(ii) and 361.5(c)(32)(ii)] in the Workforce Innovation and Opportunity Act. These regulations and guidance are having an unintentional, but deleterious, job-killing impact for people with significant disabilities. Specifically, RSA's guidance is indiscriminately disqualifying vocational rehabilitation job placements to certain nonprofit agencies (NPAs) based upon their participation in the congressionally-mandated U.S. AbilityOne Program, a program instituted specifically to increase competitive employment opportunities for people with significant disabilities.

The language in the integrated settings criteria promulgated by RSA restricts access to quality competitive integrated jobs for people with disabilities simply by virtue of their being on contracts awarded under the AbilityOne Program, and is inconsistent with other parts of the regulation, the department's longstanding practice and technical guidance. At least 19 states' Vocational Rehabilitation (VR) agencies have stopped referring and placing individuals with disabilities through NPAs that participate in the AbilityOne Program.

Greater Richmond ARC is an NPA participating in the AbilityOne Program and employs 72 individuals with disabilities on long-term federal contracts at pay rates ranging from \$11.73/hr to \$21.72/hr. Because referrals and placements from state vocational rehabilitation counselors have been impinged by RSA guidance, employment opportunities at my agency are being denied to deserving individuals with significant disabilities, thus inhibiting their ability to earn excellent wages and be a vital part of our community.

We request the DoEd to immediately rescind the FAQ guidance (posted on DoEd's website, <https://www2.ed.gov/about/offices/list/osers/rsa/wioa/competitive-integrated-employment-faq.html>) related to the definition of integrated settings, issue clarifying guidance and clearly state that employment at community rehabilitation programs, including employment positions funded by federal contracts under the AbilityOne Program, may be considered competitive integrated employment as long as it meets the criteria defined in RSA-TAC-06-01 and the WIOA (P.L. 113-128).

Thank you for the opportunity to comment on existing regulations that eliminate jobs or inhibit job creation.

Sincerely,



John B. Walker
President and Chief Executive Officer