

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.

Currently, individuals employed on our AbilityOne sourced contracts earn \$19.25 per hour, with pension and full health care benefits. Toolworks has never paid sub-minimum wage and has never pursued these types of opportunities. Our workforce is integrated. We understand the intent behind this regulation, but the affect actually puts these opportunities for people with disabilities to have full time employment that offers a living wage at risk. We believe that working with the Commission to make other AbilityOne programs more closely mirror ours to be a more effective approach than the current regulations.

The language in the integrated settings criteria promulgated by RSA restricts access to quality competitive integrated jobs for people with disabilities and is inconsistent with other parts of the regulation, the department's longstanding practice and technical guidance. My state's vocational rehabilitation (VR) agency is one of at least 19 states VR that have stopped referring and placing individuals with disabilities through NPAs that participate in the AbilityOne Program.

Toolworks is a NPA participating in the AbilityOne Program and employs over 100 individuals with disabilities in a variety of positions. Because referrals and placements from state vocational rehabilitation counselors have ceased employment opportunities at my agency are going unfilled. Deserving individuals with significant disabilities are denied these opportunities and the ability to be a vital part of our community.

We request that the DoEd immediately rescinds 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 and issue clarifying guidance and that employment at community rehabilitation programs, including employment positions funded through 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).



connecting ability to opportunity

The jobs we create through the AbilityOne program are union scale with great benefits. Thank you for the opportunity to comment on existing regulations that eliminate jobs, or inhibit job creation.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristy Feck".

Kristy Feck, CEO