



# American Council of the Blind

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September 20, 2017

Ms. Kim Richie, Acting Director  
Office of Special Education and Rehabilitative Services  
Department of Education  
550 12<sup>th</sup> Street SW  
Washington, DC 20202

RE: Comments on Regulatory Reform for the Department of Education  
Docket #: ED-2017-OS-0074

The American Council of the Blind (ACB) writes regarding the Department of Education (Department) request for comment on regulatory reform, published in the Federal Register on June 22, 2017 (82 FR 28431). We thank the Department for the opportunity to weigh in on critical programs and services that could be strengthened through regulatory reform. ACB is the nation's leading grassroots consumer organization representing Americans who are blind and visually impaired, with 70 affiliates throughout the country and across a wide range of special-interest areas. ACB stands committed toward expanding independence and opportunity for the millions of Americans who are blind and visually impaired, and we believe that a strong educational and workforce development system is paramount toward people who are blind gaining equal access and independence in our country.

ACB wishes to focus any comments encompassing regulatory reform on the fundamental values and principles espoused in the Rehabilitation Act of 1973 as amended, and the unique role this landmark legislation has had over the past 44 years juxtaposed against the current direction rehabilitative services have taken over the past five decades. Indeed, while the last major piece of regulation intended to break down barriers and misconceptions of people with disabilities passed Congress in 1990 – that being the Americans with Disabilities Act (ADA), which embodied many of the key drivers in the Rehab Act intended to create an equal playing field for people with disabilities in our country – the full and equal participation of Americans with disabilities still remains stagnant from when Title I of the ADA was passed 27 years ago. With roughly two-thirds of working-age Americans who are blind or significantly visually impaired remaining on the sidelines of our workforce<sup>1</sup>, knowing well that advancements in technology have leveled the playing field for new employment opportunities from retail to advanced professional fields, it begs the question: What systemic and structural barriers still stand in the way of equal employment opportunity by people who are blind?

Blindness is a unique disability, in that while the average individual is more than capable of becoming an active contributor to the national workforce, there exist multiple barriers that stand in the way of newly

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<sup>1</sup> See longitudinal data from the annual Disability Compendium released by the University of New Hampshire's Rehabilitation Research and Training Center on Disability Statistics and Demographics, available at: <https://disabilitycompendium.org/>.

blinded individuals achieving their full potential. Acquiring the skills necessary to live an independent life is just one pillar of a multi-pronged pathway back to independence. Of equal importance are the social and psychological barriers that must also be removed, in addition to fostering the soft skills necessary to live as an independent blind person in a society that relies heavily on visual sense perception.

To best comment on the regulatory landscape encompassing the complete educational formation and rehabilitation of an individual who is considered legally blind, and therefore covered under 29 USC 700 et seq. and 34 CFR 361, it is important to understand the workforce and governmental constraints that embody the lion's share of individuals who can benefit from the Department's programs and services for people with disabilities. The incidence of blindness in America continues to experience significant growth, and is expected to spike in 2020 with continued growth over the next decade, doubling from where it was a decade ago.<sup>2</sup> We've seen this trend over the past several years, with the incidence of blindness growing faster than the overall rate of people with disabilities. While the majority of blindness is occurring in older-age populations – due in part to the Baby Boomer population reaching the age where the prevalence of age-related vision loss increases – America has also seen a rapid increase in middle-age conditions like glaucoma and diabetic retinopathy, the latter now considered the leading cause of blindness in the United States.<sup>3</sup> These conditions occur more frequently in communities of color, which has historically faced socioeconomic challenges toward full and equal opportunity in society. This culmination of significant increased incidence creates a power play that stands in dissidence with the recent reforms undertaken in the field of rehabilitation. Add in the issue that private and government health care plans have traditionally not covered vital rehabilitative services for the blind like orientation and mobility, braille instruction, and independent living skills, and the build-up of barriers to independence is greatly exacerbated.

The Workforce Innovation and Opportunity Act of 2010 (WIOA), which made major changes to the Rehab Act, remains the driving force of opportunity for individuals who are newly blind in America. Without the authorization WIOA brings toward allowing state vocational rehabilitation agencies to provide valuable employment training and rehabilitative services to tens of thousands of newly blinded individuals throughout the country, people who are newly blind would be left with little to no opportunity for supports and services that reintegrate them fully back into the community and workforce.

ACB recognizes that WIOA made major strides toward channeling young adults into competitive integrated work. The 15% set-aside spelled out in 34 CFR 361.48 bridges the educational experience of youth with the necessary steps toward success in the workforce. The five core categories of programs provided through Pre-Employment Transition Services (Pre-ETS) work to unravel generational barriers of low expectations by providing experiential learning and mentoring that empowers individuals for success. Indeed, ACB is deeply committed to leveraging opportunities like mentoring as a pathway of self-realization for youth, allowing them to recognize the power within themselves.

As great as WIOA is for lifting up the future opportunities for youth with disabilities, there is great concern within our community that older-age adults will be pushed to the sidelines as state vocational rehabilitation agencies shift their attention toward younger adults. Blindness remains predominantly a

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<sup>2</sup> NIH. (May 19, 2016). "Vision Impairment, Blindness Cases Expected to Double by 2050." Accessed on Sept. 17, 2017 at: <https://www.nih.gov/news-events/news-releases/visual-impairment-blindness-cases-us-expected-double-2050> .

<sup>3</sup> National Eye Institute. "Facts About Diabetic Eye Disease." Accessed on Sept. 17, 2017 at: <https://nei.nih.gov/health/diabetic/retinopathy> .

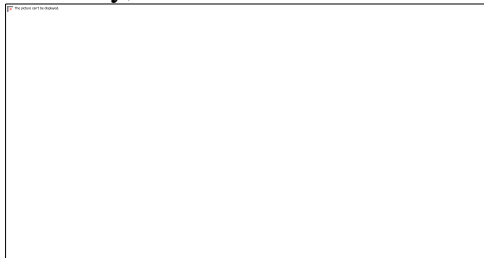
condition that occurs later in life.<sup>4</sup> Therefore, we remain deeply concerned at the disproportionality of expenditures for rehabilitation not meeting the current and future demand. We have already heard concerns raised by state agencies that their required 15% has significantly grown as an overall proportion of allotted funds. And as more and more Americans with vision loss slide into the 55 or older population, serious questions must be addressed regarding the role programs like the Older Individuals with Blindness Independent Living Program (OIB) will play toward meeting the needs of sustaining community integration for a population more prone to severe vision impairment and blindness.

Another key area of great concern within WIOA would be the Department's determination to eliminate uncompensated outcomes for consumers who are blind and visually impaired without establishing alternative constructs of rehabilitation that take into account the unique needs of individuals who are newly blind and require significant physical and emotional adjustment to their disability. Particular concern is given to those older-age adults who have already actively participated in the workforce for years, wherein their greatest need is to gain the necessary set of skills in order to live independently, thus allowing for them to regain the confidence needed to return to work. Opportunities like the Homemaker Outcome allowed for individuals to first, and most importantly, regain the fundamental skills needed to effectively live and work in their own homes as people who are blind.

Independence in the home is a necessary antecedent for achieving any successful competitive and integrated employment outcome. For this reason, ACB believes that the Department should take necessary steps to identify how services and supports provided through the Homemaker Outcome may be redefined in a manner that allows for individuals to achieve the physical, social, and emotional steps required toward establishing a desire to reclaim their status as someone fully integrated back into the community. If the Department continues to stand by its determination to eliminate uncompensated outcomes, then ACB calls on the Department to engage with stakeholders in a manner that fosters thoughtful innovation toward how full and equal independence in the community can be regained by those who experience a major life changing disability like blindness.

ACB thanks the Department for the opportunity to weigh in on critical matters encompassing regulatory reform. We encourage the Department to serve as a catalyst for thoughtful innovation in the governmental, nonprofit and private sectors. Our workforce stands at a pivotal time in history, where technology is transforming business sectors and industries. To that end, please do not hesitate to reach out to ACB as the Department continues to identify areas of reform within education and rehabilitation.

Sincerely,

A rectangular box with a thin black border, used to redact the signature of Anthony Stephens. It is positioned below the word "Sincerely,".

Anthony Stephens  
Director of Advocacy and Governmental Affairs  
American Council of the Blind

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<sup>4</sup> WHO data on blindness and vision impairment. Accessed on September 17, 2017 at:  
<http://www.who.int/mediacentre/factsheets/fs282/en/> .