

## **“State Vocational Rehabilitation Services Program; State Supporter Employment Services Program; Limitations on Use of Subminimum Wage; Final Rule”**

Before my own 15-year-old daughter had both her eyes crushed leaving her totally blind from a tragic car accident 6 years ago, I had no idea what blind people could accomplish. She has now completed 4 years at Fresno State University pursuing her doctorate in Clinical Psychology. Through proper training and support, the loss of sight is not as disabling as our society thinks it is. I have personally witnessed thousands of blind employees doing real jobs that I never thought possible. The blind and visually impaired have so much to offer our communities, and many could thrive without social assistance; however, training and encouragement do not happen overnight. Recent legislature has caused serious damage to the hopes and dreams of many blind, almost as if they don't matter.

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which reauthorized and reformed the nation's workforce development programs. To implement WIOA, federal agencies issued a total of five regulatory rules. DoED issued The Vocational Rehabilitation (VR) final rule in August, 2016. The VR final rule contained detrimental policy decisions and misguided language that we believe exceeded congressional intent and place at risk employment and related services for Americans who are blind at our agency, and those at other AbilityOne® Program agencies.

Under WIOA, Congress combined previously existing definitions under what is now called “Competitive Integrated Employment”. Congress did not change the “integration” definition that already existed in regulations and that has been used by the Rehabilitation Services Administration (RSA) and state VR agencies; Yet the final WIOA rule on Vocational Rehabilitation programs enacted by DoE contained language that said any nonprofits working through AbilityOne, state use programs or that are required to comply with labor ratio requirements, are either never going to, or not likely not going to, provide employment in integrated work settings. This logic is both untrue and naïve.

As a result of these misguided, blanket statements by DoED, some state VR agencies have distributed letters telling nonprofit agencies like ours they cannot continue to work with AbilityOne nonprofits. This is regulatory overreach, goes well beyond congressional intent, and is resulting in harm and the withholding of services to people who are blind and who freely choose to work at an AbilityOne associated nonprofit agency.

Existing regulations issued by the Department of Education/RSA, and still in effect today, require state VR agencies to research each employment setting to make determinations as to whether or not it is “integrated” and this must be done on a case-by-case basis. State VR agencies cannot simply write off AbilityOne agencies based on unwise statements in the final VR rule issued by DoED.

The Department of Education also overreached in the VR rule when it made the discretionary decision to eliminate the category of uncompensated outcomes, which includes the “Homemaker Exemption.” This category is utilized disproportionately by people who are blind, and allows older adults that have experienced vision loss sufficient time to receive training and rehabilitation. Congress did not direct DoED to eliminate the homemaker exemption when it passed WIOA, and this unilateral decision by the Department comes at a time when the federal government projects increased numbers of older Americans will experience vision loss.

Our two major concerns regarding the WIOA VR rule are: (1) The emphatic 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; and (2) The decision by the Education Department in this rule to eliminate (phase out) the uncompensated outcomes category, which includes the Homemaker Exemption. This now cuts off opportunities for people who experience vision loss later in life to receive training and supports that could lead to their reentry into the workforce after regaining confidence and the skills necessary to return to work.

The decision to eliminate this category was a purely discretionary one on the part of the Department and it has the capacity to reverse this decision and restore the Homemaker Exemption – notwithstanding the previous Administration's contention that the category no longer made sense in light of the statutory definition of Competitive Integrated Employment, and the fact that this category doesn't include individuals earning wages.

I appreciate your time in regard to this matter. This overreach has caused considerable damage to service organizations for valuable blind and visually impaired citizens who should not be forgotten or cast aside.