

September 20, 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:

SourceAmerica appreciates the opportunity to submit comments on regulations that may be appropriate for repeal, replacement, or modification according to the notice that was published in the Federal Register on June 22, 2017. Our comment is in regard 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 definition of competitive integrated employment [under 34 CFR §361.5(c)(9)(ii) and 361.5(c)(32)(ii)] in the Workforce Innovation and Opportunity Act (WIOA). 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 (VR) job placements to certain nonprofit agencies (NPAs) based upon their participation in the congressionally-mandated U.S. AbilityOne® Program.

SourceAmerica is an AbilityOne® Authorized Enterprise designated by the U.S. AbilityOne Commission® in accordance with 41 U.S.C. Chapter 85. SourceAmerica does not represent the U.S. AbilityOne Commission, an independent federal agency. Information about the AbilityOne Program is found at [www.abilityone.gov](http://www.abilityone.gov). Information specific to SourceAmerica is found at [www.sourceamerica.org](http://www.sourceamerica.org). SourceAmerica supports a national network of nearly 500 NPAs that participate in the AbilityOne Program. SourceAmerica NPAs provide training and employment opportunities for more than 115,000 people with significant disabilities, including over 40,000 individuals with significant disabilities in the AbilityOne Program.

WIOA is an important piece of legislation that received considerable bipartisan support in Congress. Attaining competitive integrated employment is a worthy goal for all individuals with disabilities who receive vocational rehabilitation services under WIOA. However, we believe that the integrated location criterion in the final regulation is based on an overly simplistic and inaccurate understanding of the types of jobs that are provided through the AbilityOne Program. As a result of the integrated location criterion, we know of at least 19 state VR agencies that have stopped placing individuals with disabilities into AbilityOne jobs.

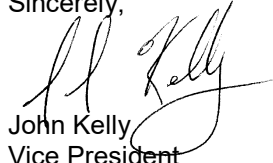
The majority of AbilityOne jobs are competitively integrated. Most AbilityOne employees with disabilities work right alongside co-workers without disabilities and the average hourly wage for the more than 40,000 people with significant disabilities employed on AbilityOne contracts in 2016 was \$13.27. Workers with disabilities have the same interactions with their co-workers, customers and vendors as their non-disabled counterparts. They also have the same opportunities for advancement as their co-workers without disabilities. They perform the same work and are held to the same performance standards.

The AbilityOne jobs I have described above satisfy WIOA's statute definition of "competitive integrated employment" and, historically, most state VR agencies, after evaluating these jobs on a case-by-case basis, have placed individuals receiving VR services to these job positions with NPAs participating in the AbilityOne Program.

We are respectfully requesting that the DoEd 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 and issue clarifying guidance 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 in Parts 361.5(c)(9) and 361.5(c)(32) of the WIOA regulations.

Thank you for the opportunity to comment on existing regulations that eliminate jobs, or inhibit job creation. If you have any questions or need any additional information, please contact me at [jkelly@sourceamerica.org](mailto:jkelly@sourceamerica.org) or (571) 226-4691.

Sincerely,

A handwritten signature in black ink, appearing to read "John Kelly", is written over the printed name.

John Kelly  
Vice President  
Government Affairs and Public Policy