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Navigating Autism Today

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Dear Secretary DeVos,

We appreciate your time and immediate attention to the important issue outlined below, as well to the recommendations of our organization.

Background Information

The definition of "competitive integrated employment" (34 CFR §361.5(c)(9)) was rewritten during the regulatory process. The Department of Education changed what Congress intended by *narrowing what qualifies as competitive integrated employment*. This definition should be eliminated and replaced with the definition in the WIOA statute until a broader, more expansive definition can be put in its place.

In both the definition of "competitive integrated employment" (CIE) and the definition of "integrated setting" (34 CFR §361.5(c)(32)), the Department describes integration occurring at the "work unit" level. This language is not found in the WIOA statute. It was made up in the regulatory process. Defining integration as occurring at the "work unit" level is job limiting and so subjective that it would be impossible to apply to the general workforce given that people with disabilities have every right to their privacy. It only targets people who work through providers of services to people with disabilities, which is inherently unfair and treats people with disabilities differently from the workforce at large. Moreover, as a simple matter of math, requiring a two-person crew currently employing two people with disabilities to be fully integrated would mean one person on the crew would have to be without disabilities. The narrow interpretations of CIE and integrated settings have ultimately diminished work opportunities for people with disabilities.

Our Recommendation:

The Department should focus on expanding employment choice for people with disabilities, not further limiting it. People with disabilities want and deserve a full array of options. A definition that limits their menu of choices will not lead to further integration, but rather will reduce opportunities and cost people with disabilities jobs, leaving many to sit home without any opportunity for socialization and interaction with others. Many, especially the more severely affected segment of the disability population, will struggle in community based settings as many of the supports needed to stay safe and engaged in a job do not exist, even when more funding is provided. Additionally, a significant segment of the aging population will be severely, negatively impacted with such a drastic change in lifestyle, routine, and familiar surroundings, especially those with autism spectrum.

The Department of Education and the Rehabilitation Services Administration (RSA) did not stop with the narrow interpretation of competitive integrated employment; they added a presumption that jobs falling under programs intended to employ people with disabilities would not qualify as an employment outcome under the law. RSA incorporated this message into [FAQs that the RSA posted on January 18, 2017](#). It is also a message that RSA delivered to State Vocational Rehabilitation (State VR) offices. Not surprisingly, State VR offices in numerous states (often reluctantly) have stopped referring people with disabilities to good jobs that meet their needs, including jobs under the federal AbilityOne program or State Set-Aside programs. The State VR offices think their hands are tied, but this is not what Congress intended. The January 18, 2017 FAQs represent a significant change of federal policy and turn the purpose of WIOA on its head. The FAQs are a carryover from the last administration that is costing people jobs. The Department should eliminate the FAQs and RSA should advise the State VR offices that AbilityOne jobs and State Set-Aside jobs presumptively *do qualify as competitive integrated employment*. In addition, the Department and RSA should advise State VR offices to take an expansive view as to what qualifies as competitive integrated employment. People with disabilities who want to work should be helped in every way possible to find work and, once hired, to remain attached to the workforce. There is dignity in work and, as with the rest of the workforce, the best way to find a job is to already have one.

Young adults with disabilities who want to work also should be permitted to work whenever possible. Section 511 of WIOA is being interpreted through some State VR agencies to prevent people with disabilities who are under the age of 25 from working under 14(c) certificates even when there is no job for them elsewhere. This must change. It does not benefit a person who wants to work to be placed in a day program or left at home. We ask that the Department clarify to state VR offices that the focus should be on helping young adults under the age of 25 to become attached to the workforce, and to eliminate any guidance suggesting otherwise.

Sincerely,

A handwritten signature in black ink that reads "Colleen Allen Ph.D." in a cursive, slightly stylized font.

Colleen M. Allen, President and CEO
Autism Alliance of Michigan