September 20, 2017

Hilary Malawer, Esq.
Assistant General Counsel
Office of the General Counsel
United States Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Education Docket: ED-2017-OS-0074-0001

Dear Ms. Malawer:

Thank you for this opportunity to point out how sections of the Workforce Innovation and Opportunity Act (WIOA) regulations reflect only a narrow view of what qualifies as competitive integrated employment (34 CFR§ 361.5(c)(9)) and an "integrated setting" (34 CFR § 361.5 (c)(32)), and do not reflect what Congress intended. These definitions were drafted during the regulatory process under the prior Administration and, frankly, are costing jobs. We have experienced first-hand the "citizens' anguish" that occurs when people with disabilities lose their preference for employment over day activities or are not provided an opportunity to work in a specific setting because of over regulation. We implore you to fast-track steps to review, amend, or eliminate these definitions. Competitive integrated employment must be defined in the most inclusive way possible – to keep people who are employed attached to the workforce, to help people who looking for work find jobs, and to give every advantage and encouragement in becoming employed to people who have never worked.

The Department should start with eliminating the sub-definition of "work unit" found in the definition of competitive integrated employment created during the regulatory process. This language does not appear in the WIOA statute nor did Congress express an intent to measure integration at the "work unit" level. The inclusion of work unit underscores the massive regulatory overreach that needlessly disrespects employment settings of choice and preference for people with disabilities. Even worse, in order to verify that a job qualifies as competitive integrated employment, the state agency would have to identify workers with a disability versus workers without a disability. This act is intrinsically prejudicial because it considers people with disabilities differently than others in the workforce. Moreover, it would violate federal laws that preclude employees being asked whether they have a disability and employers from sharing that information. The definition must be changed. The goal of WIOA is to expand employment opportunity for people with disabilities, not conduct a head count.

It is frustrating that the previous administration's Department of Education and the Rehabilitation Services Administration narrowly defined and then further narrowly interpreted competitive integrated employment to insinuate a presumption *against* employment. People with disabilities who previously would have been eligible for good jobs in and through programs that were created to train, directly employ, and provide additional support services are now less likely to be referred to those jobs regardless of pay, benefits, or the employee's preference, not because they do not want the jobs but because of an unfounded presumption against those jobs qualifying that RSA posted on its website on January 18, 2017 (FAQs). No other minority group in America faces this level of discrimination. The January 18, 2017 FAQs must be removed and the state agencies informed that the presumption

going forward will be in favor of jobs qualifying as competitive integrated employment. WIOA was a hugely popular, bipartisan effort intended to increase the workforce. Please get rid of the roadblocks and let WIOA do what it was intended to do for people with disabilities.

Thank you again for this opportunity to point out our serious concerns regarding the unnecessary and possibly discriminatory WIOA definitions for competitive integrated employment and the "work unit.

Please let us know if we can be of further assistance.

Sincerely,

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