Hilary Malawer

Assistant General Counsel

Office of the General Counsel

U.S. Department of Education

400 Maryland Avenue SW., Room 6E231

Washington, DC 20202.

**RE:ID: ED-2017-OS-0074-0001**

Dear Ms. Malawer:

Language defining the “work unit” added by the Department of Education in Title IV, Section 404(5) is too restrictive and goes beyond the statute. All these overreaching regulations will cost good jobs for persons like myself [my child], both in community businesses and when working for a community rehabilitation provider.

Specifically, 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 by adding the condition "is at a location typically found in the community.” This condition is not specifically established in the law. The regulatory definition of **“competitive integrated employment” should be eliminated and replaced with the definition that appears in the WIOA statute.**

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 also not found in the WIOA statute. **Defining integration as occurring at the “work unit”** **level is job limiting** and would be impossible to apply to the general workforce given that people with disabilities have every right to their privacy. The “work unit” language specifically **targets people** **who work for non-profit providers of employment services to people with disabilities**. This language **treats people with disabilities differently** from the workforce at large and the non-profit service provider differently than any other employer. The sub definition of the “**work unit” should be eliminated** from the regulations.

The Department of Education and the Rehabilitation Services Administration (RSA) also 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. As a result, state **VR offices** in numerous states have **stopped referring** **people with disabilities to good jobs** that meet their needs, including jobs under the federal Ability One program and state Set-Aside programs. This is not what Congress intended. These FAQs represent a significant change of federal policy. The FAQs are a carryover from the last administration that is costing people jobs by eliminating referrals from State VR agencies. The Department should eliminate the FAQs and RSA should advise the State VR offices that Ability One jobs and State Set-Aside jobs presumptively do qualify as competitive integrated employment.

In addition, young adults with disabilities who want to work should be permitted to work whenever possible. Section 511 of WIOA is being **interpreted as 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**. I 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.

I am very concerned about what happens once jobs like these are eliminated by these regulations and guidance. **The Department should focus on expanding employment choice for people with disabilities**, **not limiting it**. People with disabilities want and deserve a full array of options in employment. Regulations and guidance that limits their menu of choices will not lead to further integration, but rather will reduce opportunities and **cost people with disabilities jobs**.

Thank you for your consideration