I am the CEO of Cincinnati Association for the Blind and Visually Impaired (CABVI), a 501(c)3 Blindness Rehabilitation agency founded in 1911. Our mission is to "Empower people who are blind or visually impaired with opportunities to seek independence" and our Vision is to "Ensure full lives and community inclusion."

A major part of CABVI's work is to provide job opportunities for people who are blind at all levels of the organization from direct jobs to professional staff positions. Our employees are able to support themselves and their families and have dignity in their community.

We do work for a variety of companies such as 3M, Toyota, MN8 and others. We also have multiple contracts with the Ohio State Use program. We are also associated with the National Industries for the Blind to pursue job opportunities through the U.S. AbilityOne program. I am providing this comment on behalf of the more than 40,000 who are employed in associated organizations under the AbilityOne program.

The “State Vocational Rehabilitation Services Program; State Supporter Employment Services Program; Limitations on Use of Subminimum Wage; Final Rule” has significantly impacted our ability to receive referrals of individuals who are blind to fill well paying jobs and quality employment opportunities at CABVI. The WIOA VR rule makes general blanket statements that limit opportunities under the U.S. AbilityOne Program and have resulted in many state Vocational Rehabilitation Agencies no longer willing to work with AbilityOne nonprofit agencies.

On integrated work settings, and statements in the WIOA VR rule that pre-judge the work done within our program, here are just a few examples of just such statements:

“When the criteria are properly applied by DSUs, group and enclave employment settings operated by businesses formed for employing individuals with disabilities will not [emphasis added] satisfy the definition of “competitive integrated employment.”

“Therefore, the Secretary maintains the long-standing Departmental policy that settings established by community rehabilitation programs specifically for the purpose of employing individuals with disabilities (e.g., sheltered workshops) do not [emphasis added] constitute integrated settings because these settings are not typically found in the competitive labor market – the first of two criteria that must be satisfied if a DSU is to determine that a work setting is an integrated location under final 361.5 (c) (9).”

“The factors that generally would result in a business being considered “not typically found in the community,” include: (1) the funding of positions through Javits-Wagner-O’Day Act (JWOD) contracts; (2) allowances under the FLSA for compensatory subminimum wages; and (3) compliance with a mandated direct labor-hour ratio of persons with disabilities.”

But, even with these categorical statements that pre-judge our program and the employment opportunities we provide, later in the very same rule the Department reminds state VR agencies they must still examine each job and decide on a case-by-case basis:

“We emphasize that it is the DSU’s responsibility to apply final 361.5 (c) (9) (ii) in a manner consistent with long-standing Departmental policy. The DSU must apply the criteria equally to any position, whether it involves the management or administration of, or the production and delivery of goods and services by, the organization, and without regard to the type of business operation, such as, but limited to, a call center within a community rehabilitation program, the manufacture of office supplies by a State industries program for individuals who are blind, or a contract for landscaping services. The criteria contained in final 361.5 (c) (9) (ii) and 361.5 (c) (32) (ii) provide important clarifications that are necessary to better enable a DSU to determine, on a case-by-case basis, whether or a particular position in an organization’s specific work unit is in an integrated location.”

These statements paint agencies with AbilityOne or state use contracts with a “broad brush.” It assumes that all AbilityOne affiliated non-profit agencies operate like community based rehabilitation programs or sheltered workshops. The rule does not consider progressive entities like Beyond Vision that have been able to leverage the AbilityOne and state use programs to create good paying jobs, transform to competitive and integrated work environments, and provide paths of upward mobility for people who are blind or visually impaired.

Some of the negative impact of this rule that we have observed:

• Employees in Ohio having VR services cut off completely.

• No more referrals from VR agencies or job placement partners.

• The elimination of “informed choice” for VR consumers who are blind or visually impaired.

We request that the Department of Education revise these rules and take a more accurate viewpoint of the AbilityOne Program. Individual jobs and individual NPA’s should be evaluated on a case-by-case basis and not with the broadly generalized and misguided WIOA VR regulation language noted.

Respectfully,

John H. Mitchell

CEO

Cincinnati Association for the Blind & Visually Impaired