



September 20, 2017

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: Docket ID: ED-2017-OS-0074, Evaluation of Existing Regulations

Ms. Malawer:

The undersigned write in response to the above referenced docket number 13777, “Enforcing the Regulatory Reform Agenda,” and the request for input on regulations that may be appropriate for repeal, replacement, or modification.

We first note that we reject the erroneous notion that the process the Department is engaging in, in response to Executive Order 13777 “Enforcing the Regulatory Reform Agenda,” will be of any benefit to the 50.4 million K-12 students the Department is mandated to serve nor will it aid the Department in fulfilling its stated mission to “promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.”

Although our comments below will focus on the importance of maintaining the regulation which defines Competitive Integrated Employment found in the recently enacted, bi-partisan Workforce Innovation and Opportunity Act, **the undersigned oppose the effort to repeal, replace or modify any of the regulations listed in the Regulatory Reform Taskforce report.**

Workforce Innovation and Opportunity Act (WIOA)

The integration of people with disabilities into all aspects our society, including employment is considered today to be a civil right. For many years, individuals with disabilities were unable to fully participate in all aspects of society. Now, with strong laws at both the federal and state level that provide legal protection about everything from building accessibility to education access, it is time that we extend that same philosophy to the work environment. The regulations that define competitive integrated employment in the Workforce Innovation and Opportunity Act allow us to do so.

Definition of a “Competitive, Integrated Employment (CIE) Outcome [34 CFR § 361.5(c)(9)]

Although this term was embedded within the statutory language of the 1998 reauthorization of the Rehabilitation Act, it had not been defined until the enactment of the WIOA.

This definition is one of the most significant changes to the Rehabilitation Act under WIOA. The significance lies in the message underlying the chosen terminology. By consistently emphasizing the importance of this definition, the Vocational Rehabilitation (VR) program is affirming the principle that all individuals with disabilities, even those with the most significant disabilities, are capable of achieving high quality jobs in the community.

Furthermore, the current definition for competitive, integrated employment is *completely consistent with the statutory language* and does not contradict such language in any way. Therefore, it would be incorrect to alter the regulatory definition.

We realize that there has been some pushback about this definition from individuals who support the segregated, “enclave” employment model. The enclave model is absolutely inappropriate in 2017. Integration should be evident in all aspects of the workplace. Altering this definition so that it would correspond with the characteristics of an enclave would change its power, meaning, and the underlying purpose of the statutory provision.

Most importantly, changing the definition would contradict the statute. *Based upon the statutory language, it would be impossible to simultaneously meet the criteria for an enclave and the criteria for competitive, integrated employment.*

Embracing an enclave (a group of individuals with disabilities assigned to a job task - though the task itself may take place in the community, the enclave consists solely of people with disabilities and they have little or no interaction with their non-disabled peers) as a legitimate CIE outcome would create a slippery slope. For example, if only 2-3 people with disabilities comprise a particular enclave, that circumstance might be considered an integrated setting. But, if you apply such a theory to a small group like that, what will prevent the same rationale from being applied to a segregated work unit of 10-15 people with disabilities?

The goal of the VR program, and of the amendments to the Rehabilitation Act under WIOA, is to eliminate segregated employment options for people with disabilities so that they can more fully participate in community employment opportunities. With this goal, and the fact that this regulation reflects the statutory language, **this regulation should not be rescinded, modified, nor replaced.**

Should you have any questions, please be in touch with Amanda Lowe, Senior Public Policy Analyst, National Disability Rights Network, at Amanda.lowe@ndrn.org.

Sincerely,

The Advocacy Institute
The Advocat Group
Allies for Independence
American Federation of State, County and Municipal Employees
American Federation of Teachers

The Arc of the United States
Association of University Centers on Disability
Autistic Self Advocacy Network
Center for Public Representation
Collaboration to Promote Self Determination
Disability Power and Pride
Disability Rights Education & Defense Fund
Institute for Educational Leadership
Judge L. Bazelon Center for Mental Health Law
National Alliance for Partnerships in Equity
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Center for Transgender Equality
National Disability Institute
National Disability Rights Network
National Down Syndrome Congress
National Education Association
Service Employees International Union
National Employment Law Project
TASH