



November 21, 2019

Acting Assistant Secretary Mark Schultz
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202-7100

Dear Acting Assistant Secretary Schultz,

The undersigned organizations write to welcome you to your new role as Acting Assistant Secretary of the Office of Special Education and Rehabilitation Services (OSERS), which oversees both the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA) at the U.S. Department of Education. Our organizations stand ready to assist you as you carry out the mission of RSA, “to provide leadership and resources to assist state and other agencies in providing vocational rehabilitation (VR) and other services to individuals with disabilities to maximize their employment, independence and integration into the community and the competitive labor market.”

We know that your office is actively considering the future of the regulations implementing the Workforce Innovation and Opportunity Act (WIOA). Through the past three Unified Agendas, Secretary DeVos has notified the public of her intent to issue a notice of proposed rulemaking to amend the regulatory definitions in the WIOA implementing regulations, 34 CFR part 361. She reaffirmed that intent in the Fall 2019 Unified Agenda that was published yesterday. **The undersigned wish to unequivocally state that our groups are united in opposition of opening WIOA’s implementing regulations and believe such action would undermine the progress states and stakeholders are making in expanding opportunities for competitive integrated employment.**

As you know, WIOA was passed with overwhelming bipartisan support and represents the first major legislative reform of the public workforce system in 15 years. WIOA expresses a clear policy in support of competitive integrated employment: jobs where people with disabilities are paid the same wages, have the same opportunities for advancement, and work alongside their co-workers without disabilities. Among other provisions, WIOA defines an employment outcome as competitive integrated employment; prohibits the placement of students transitioning from school into segregated subminimum wage employment without having first had the opportunity to try competitive integrated employment; mandates pre-employment transition services to prepare students for competitive integrated employment; requires people in segregated subminimum wage settings to be offered competitive integrated employment; and requires that vocational rehabilitation services support competitive integrated

employment outcomes. As directed by Congress, the Department of Education issued regulations implementing WIOA in August 2016. The WIOA regulations are very much aligned with both Congressional intent and long-standing Department of Education policy.

Despite the clear bipartisan support for WIOA, some members of Congress and stakeholders have raised some concerns about the regulations and urged that they be opened. In an effort to find a more sensible and less disruptive solution, numerous disability groups with a range of views came together to work in good faith to craft a consensus solution. Over twenty groups endorsed the position in the [March 7, 2018 letter from the Consortium of Citizens with Disabilities Employment Task Force](#),¹ recommending that the Department address any confusion or misunderstanding about the regulations by providing technical assistance and making clarifying changes to its sub-regulatory guidance instead of opening up the regulations. Similarly, the National Council on Disability issued a [report](#) in October 2018 recommending that the WIOA regulations not be re-opened and instead that RSA provide technical assistance to state vocational rehabilitation agencies to address any confusion or misunderstanding about how to apply the regulations.² Likewise, the Senate Health, Education, Labor and Pension (HELP) Committee also issued a [report](#) making similar recommendations: “The regulations promulgated by the U.S. Department of Education should not be changed at this time. Technical assistance should be provided by the Rehabilitative Services Administration to support state-level implementation of the law and existing regulation.”³

The undersigned – which reflect a wide range of stakeholders from national organizations, state agencies, employment providers, and people with disabilities and their families – firmly believe that any confusion expressed by some in the field regarding the implementation of the current WIOA regulations can be addressed most effectively through technical assistance and, if necessary, clarifying sub-regulatory guidance, *not* through the opening up the regulations. We remain firm in our belief that opening the WIOA regulations will undermine the important progress that has been made in expanding opportunities for people with disabilities to work in competitive integrated employment.

As you review the WIOA regulations, we hope you will closely consider the information in these two reports and the views of the wide range of undersigned organizations that strongly oppose opening the regulations and encourage you to seek other options to address any areas of confusion or misinformation. The undersigned groups stand ready to engage in thoughtful dialogue with you and your staff about this option.

¹ CCD letter available at <http://www.c-c-d.org/fichiers/CCD-ETTF-Letter-to-RSA-March-2018.pdf>.

² National Council on Disabilities, “From the New Deal to the Real Deal: Joining the Industries of the Future,” (Oct. 2018), available at https://www.ncd.gov/sites/default/files/New%20Deal%20to%20Real%20Deal%20FINAL_508.PDF.

³ Senate HELP Committee, “Disability Employment: Outdated Laws Leave People with Disabilities Behind in Today’s Economy, Minority Staff Report,” (Oct. 2018), available at https://www.murray.senate.gov/public/_cache/files/84084732-e011-470a-b246-1cdab87755c3/staff-report-on-employment-for-people-with-disabilities-10-29-2018-pm-.pdf.

Please contact Alison Barkoff, Policy Advisor to the Collaboration to Promote Self Determination (abarkoff@cpr-us.org or 202-854-1270), Amanda Lowe, Senior Policy Analyst at the National Disability Rights Network (amanda.lowe@ndrn.org or 202-408-9514 ext. 101), or Rita Martin at the Council of State Administrators of Vocational Rehabilitation (rmartin@csavr.org or 240-994-8439) if you have any questions or to follow up on this letter.

Respectfully,

National Organizations:

American Civil Liberties Union
American Network of Community Options and Resources
Association of People Supporting Employment First (APSE)
Association of Programs for Rural Independent Living
Association of University Centers on Disabilities
Autism National Committee
Autism Society of America
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Public Representation
Collaboration to Promote Self-Determination
Community Options, Inc.
Council of Administrators of Special Education
Council of Parent Attorneys and Advocates
Council of State Administrators of Vocational Rehabilitation
Disability Resource Center
Disability Rights Education & Defense Fund
HIGH IMPACT Mission-based Consulting & Training
Mental Health America
National Association for Rights Protection and Advocacy (NARPA)
National Association of Councils on Developmental Disabilities
National Association of State Directors of Developmental Disabilities Services
National Association of State Directors of Special Education
National Association of State Mental Health Program Directors
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Council on Independent Living
National Disability Rights Network
National Down Syndrome Congress
National Federation of the Blind
National Independent Living Council
National Organization of Nurses with Disabilities
Paralyzed Veterans of America

Service Center for Independent Life
Starkloff Disability Institute
TASH
The Advocacy Institute
The Advocrat Group
The Arc of the United States
The Coelho Center for Disability Law, Policy and Innovation
The Grow Group
Transition Consults, LLC
United Cerebral Palsy National
Vocational Evaluation and Career Assessment Professionals (VECAP)

State and Local Organizations:

Alabama:

Alabama Disabilities Advocacy Program

Alaska:

Southeast Alaska Independent Living, Inc. (SAIL)

Arizona:

Arizona ADAPT
Arizona APSE
Arizona Center for Disability Law
Arizona Developmental Disabilities Planning Council
DIRECT Center for Independence

Arkansas:

Disability Rights Arkansas, Inc.

California:

Access to Independence of San Diego, Inc.
California APSE
California Disability-Senior Community Action Network (CDCAN)
California Down Syndrome Advocacy Coalition
California Person Centered Advocacy Partnership
California Supported Living Network
Cal-TASH
Disability Rights California
Down Syndrome Connection of the Bay Area
Path Forward Collaborative
Service Center for Independent Life
State Council on Developmental Disabilities

Colorado:

Atlantis Community, Inc.

Colorado Assn. of People Supporting Employment First (COAPSE)
Colorado Cross-Disability Coalition
Colorado Developmental Disabilities Council
Disability Law Colorado
The Independence Center

Connecticut:

Connecticut APSE
Disability Rights Connecticut
Down Syndrome Association of Connecticut

Delaware:

Disabilities Law Program, CLASI
Down Syndrome Association of Delaware

Florida:

APSE Florida
Disability Rights Florida
University of South Florida Rehabilitation and Mental Health Counseling Program

Georgia:

Georgia Advocacy Office
Georgia APSE
Georgia Council on Developmental Disabilities

Hawaii:

Access to Independence Hawaii Branch

Idaho:

Community Partnerships of Idaho, Inc.
Disability Action Center - NW, Inc.
Idaho Council on Developmental Disabilities
Idaho State Independent Living Council
NAMI Far North, Idaho
NAMI Idaho
United Vision for Idaho

Illinois:

Access Living
Disability Resource Center
Equip for Equality
Illinois Council on Developmental Disabilities
Keshet
Statewide Independent Living Council of Illinois

Indiana:

Down Syndrome Indiana, Inc.
Indiana APSE
Indiana Disability Rights

Iowa:

Disability Rights Iowa
Iowa APSE
New Hope

Kansas:

Disability Rights Center of Kansas
Prairie Independent Living Resource Center, Inc.
Southeast KS Independent Living (SKIL) Resource Center
Statewide Independent Living Council of Kansas

Kentucky:

Kentucky APSE

Louisiana:

Louisiana Association for Persons Supporting Employment First

Maine:

KFI
Maine APSE
Syntro Inc.

Maryland:

Maryland APSE
Maryland Developmental Disabilities Council
The Parents' Place of Maryland

Massachusetts:

Disability Law Center
Independence Associates, Inc.
Massachusetts APSE

Michigan:

Michigan Protection & Advocacy Service, Inc.

Minnesota:

Minnesota Disability Law Center, Mid Minnesota Legal Aid
Southeastern MN Center for Independent Living, Inc.
The Arc Minnesota

Mississippi:

Association of People Supporting Employment First

Disability Rights Mississippi

Missouri:

Delta Center for Independent Living
Heartland Independent Living Center
Missouri APSE
Missouri Developmental Disabilities Council
Missouri Statewide Independent Living Council, Inc.
Paraquad

Montana:

Living Independently for Today & Tomorrow
North Central Independent Living Services, Inc.

Nebraska:

Disability Rights Nebraska
Down Syndrome Alliance of the Midlands
Independence Rising

Nevada:

Nevada Disability Advocacy and Law Center
Nevada Governor's Council on Developmental Disabilities, NV
People First of Nevada
Southern Nevada Center for Independent Living

New Hampshire:

Disability Rights New Hampshire
TASH New England

New Jersey:

Association for Special Children & Family
DAWN Center for Independent Living
Disability Rights New Jersey
Family Voices NJ
KIIDS
MOCEANS Center for Independent Living
New Jersey APSE
New Jersey Council on Developmental Disabilities
SPAN Parent Advocacy Network

New Mexico:

Disability Rights New Mexico
Native American Disability Law Center

New York:

Access To Independence of Cortland County, Inc.

New York State Independent Living Council, Inc. (NYSILC)
NRCIL
New York APSE

North Carolina:

North Carolina APSE
Disability Rights North Carolina

North Dakota:

Designer Genes of North Dakota, Inc.
North Dakota State Council on Developmental Disabilities
Protection & Advocacy Project

Ohio:

Capabilities, Ohio
CG-HHC
Greene, Inc.
Ohio APSE
Ohio TASH
The Ability Center of Greater Toledo
United Rehabilitation Services

Oklahoma:

Dynamic Independence

Oregon:

Disability Rights Oregon
Oregon APSE

Pennsylvania:

PA APSE
Transition Consults

South Carolina:

AccessAbility
Family Connection of South Carolina
Protection and Advocacy
SCAPSE

South Dakota

Disability Rights South Dakota

Tennessee:

Disability Rights Tennessee
Down Syndrome Association of Middle Tennessee
Empower Tennessee

Tennessee Council on Developmental Disabilities

Texas:

Autism Society of Texas
Disability Rights Texas
Down Syndrome Partnership of North Texas

Utah:

Disability Law Center

Vermont:

Vermont APSE
Vermont Developmental Disabilities Council

Virginia:

Appalachian Independence Center, Inc.
Blue Ridge Independent Living Center
Center for Family Involvement
disAbility Law Center of Virginia
Down Syndrome Association of Northern Virginia
The Disability Resource Center of the Rappahannock Area, Inc.

Washington:

Community Employment Alliance
Disability Rights Washington
Total Living Concept
Washington APSE

West Virginia:

West Virginia Developmental Disabilities Council

Wisconsin:

Disability Rights Wisconsin
IndependenceFirst
The Arc Wisconsin
Wisconsin Association of People Supporting Employment First (WI APSE)
Wisconsin Board for People with Developmental Disabilities
Wisconsin Coalition of Independent Living Centers, Inc.

Wyoming

Wyoming Independent Living, Inc.
Protection & Advocacy System Inc.
Wyoming APSE

U.S. Virgin Islands:

Disability Rights Center of the Virgin Islands

Cc: Secretary Betsy DeVos, U.S. Department of Education