

# **Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities**

Final Report to:

The Honorable Thomas E. Perez  
United States Secretary of Labor

The United States Senate  
Committee on Health, Education, Labor and Pensions

The United States House of Representatives  
Committee on Education and the Workforce

September 15, 2016

September 15, 2016

Thomas E. Perez  
Secretary of Labor  
United States Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210

Dear Secretary Perez:

The Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities was established under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of the Workforce Innovation and Opportunity Act (WIOA) of 2014, to advise in three areas:

- (1) Ways to increase competitive integrated employment (CIE) opportunities for individuals with intellectual or developmental disabilities (I/DD) or other individuals with significant disabilities;
- (2) The use of certificate program carried out under Section 14(c) of the Fair Labor Standards Act (FLSA) for the employment of individuals with I/DD or other individuals with significant disabilities; and
- (3) Ways to improve oversight of the use of such certificates.

The Committee was established in September 2014 according to the provisions of the Federal Advisory Committee Act (FACA), which helps ensure the independent nature of the Committee in providing advice and recommendations to the Administration.

The primary purpose of the work of the Committee was to address issues, and make recommendations, to improve the employment participation of people with I/DD and others with significant disabilities by ensuring opportunities for CIE.

Attached you will find the Committee's Final Report. The Final Report represents the collaborative work of, and the consensus reached by, the full Committee.

Sincerely,



David M. Mank  
Chair  
Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities

## Disclaimer

This report is produced by the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the “Committee”). The Committee is established under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of WIOA, to advise the Secretary of Labor and Congress in three areas:

- (1) Ways to increase competitive integrated employment (CIE) opportunities for individuals with intellectual or developmental disabilities (I/DD) or other individuals with significant disabilities;
- (2) The use of certificate program carried act under Section 14(c) of the Fair Labor Standards Act (FLSA) for the employment of individuals with I/DD or other individuals with significant disabilities; and
- (3) Ways to improve oversight of the use of such certificates.

In accordance with the statute, this Committee has brought together leaders from numerous federal agencies with a diverse group of critical stakeholders including individuals with I/DD and other significant disabilities, providers of employment services, representatives of national disability advocacy organizations, academic experts with expertise on employment and wage policy issues for individuals with I/DD or other significant disabilities, representatives of the employer community and others with expertise on increasing CIE opportunities for individuals with I/DD or other significant disabilities.

The Department of Labor established the Committee on September 15, 2014 for a two year period, in accordance with the provision of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. FACA helps ensure the independent nature of the body and requires that the Department not exercise “inappropriate influence” over the advice and recommendations in its report. Consistent with this provision, neither this report, nor the final recommendations it contains, have been cleared or approved by the Secretary of Labor, the U.S. Department of Labor, nor the Administration, and, as such, the views expressed in this report should not be regarded as those of the Secretary, the Department, or the Administration. The report represents the collaborative work and final recommendations of the Committee as a whole.

## Acknowledgements

The Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (Committee) is grateful to the many individuals and organizations that have provided excellent work, needed knowledge, and important insights about the need for increasing competitive integrated employment for individuals with intellectual or developmental disabilities, and other individuals with significant disabilities.

The Committee thanks the individuals and organizations that provided public comment or testified before the Committee in its ten public meetings. We appreciate the testimony from citizens and organizations. The testimony provided insights and information about real employment successes, as well as the concerns of individuals with significant disabilities and their families. We appreciate the more than 2,000 letters, emails and personal video messages from people with disabilities, and other citizens and organizations across the nation that helped inform the work of the committee and its final recommendations.

The Committee would like to thank the many experts and individuals who presented at the Committee's in-person and virtual meetings. This testimony was vital to our work, and informed the Final Report. Specifically, we thank Nancy Ward and Pedro Alba (supported by his brother, Jesus Alba, and his case manager, Eugene Gloss), Rob Cimera, John Butterworth, Richard Luecking, Meghan Jones (accompanied by her parents, Sylvia Jones and Robert Jones), LaVerne Buchanan, Sheila Foran and Regina Kline, Chai Feldblum, Kimberly Zeich, Jim Martin, Bruce Phipps, Colleen Morrone, Gary Bond, Virginia Selleck, Len Statham, Ralph Lollar, Joe Ashley, Dale Matusевич, Steven Reeder, Andrew Reese, Linda Rolfe, Melody Musgrove, Marlene Simon-Burroughs, David Test, Tyler Hampton, Shelly Chandler, Gail Fanjoy, Carrie Morehouse, Janet Samuelson.

The Committee also thanks Leann Fox, Susan Paranos, Delia Paranos, Ted Knuck, Alan Gill, Tina Ballard, Angela Hartley, Ann Wai-Yee Kwong, Angel L. Miles, Andy Arias, Daniel Mellenthin, Justin Harford, Mike Callahan, Therese Fimian, Gary Green, Connie Warren, Shaun Wood, Joseph M. Macbeth, Lori Sedlezky, Ken Capone, Amy Gonzalez, Eric Ryan, William Hunter, and Tyrone Brown.

The Committee offers its sincere gratitude to the Office of Disability Employment Policy (ODEP), Employment and Training Administration (ETA) and the Wage and Hour Division (WHD) for the financial and operational support that the offices provided to the Committee. The support was critical to the success of this report. The Committee also thanks Secretary Perez and Deputy Secretary Lu for their interest in and support of the work of the Committee.

The Committee also thanks Department of Labor Committee staff. We thank Christopher Button, Bryan Ballmann, and Serena Lowe (ODEP), David Jones, Jenifer Kemp, Kim Vitelli and Laura Ibanez (ETA) and Laura Fortman, Helen Applewhaite, Becky Ogle, Diane Dawson, Robin Runge and Samantha Sanders (WHD) for their expert support in helping guide the development of both the 2015 Interim and the 2016 Final Reports. The Committee also thanks Department of Labor experts Joe Plick, Patricia Shiu, and Gerri Fiala for their testimony before the Committee.

The Committee thanks Anne Tillema, Morgan Easter, and Linda Metchikoff-Hooker for outstanding event planning support as well as expert logistical assistance. The Committee is grateful to the subject matter experts, Richard Luecking, Beth Keeton, Debra Luecking, Linda Rolfe, and Lisa Mills who provided technical information and skilled writing assistance in preparation of the Interim and Final Reports. The Committee also thanks Jacob Denne and Ali Sayer from EconSys for their excellent work on both the Interim and Final Reports.

Finally, we sincerely thank Jennifer Sheehy, Deputy Assistant Secretary of ODEP and the Committee's Designated Federal Officer, and Dave Berthiaume, Senior Advisor assigned to the Committee, for their leadership and tireless work on the Committee, and for their deep commitment to competitive integrated employment for individuals with disabilities.

## **Dedication**

In February 2015, shortly after the first meeting of the Advisory Committee, Randee Ellen Chafkin passed away. Randee was a long time employee in the U.S. Department of Labor, contributing her knowledge and passion first at the President's Committee on Employment of People with Disabilities, then the Office of Disability Employment Policy, and most recently the Employment and Training Administration. Randee dedicated her life to increasing employment of people with disabilities, especially youth and adults who experience the most significant barriers to full inclusion in employment and community participation. She will be greatly missed. When she died, a note was pinned to the wall near her desk. The sentiment expressed in that note reflects Randee's dedication and career, and is fitting for the work of the Advisory Committee.

"It's the action, not the fruit of the action that's important. You have to do the right thing. It may not be in your power, may not be in your time that there'll be any fruit. But that doesn't mean you stop doing the right thing. You may never know what results come from your action. But if you do nothing, there will be no result." - Mahatma Gandhi

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## Abbreviations

ABLE	Achieving a Better Life Experience	CWICS	Community Work Incentive Coordinators
ACCESS	Autonomy, Confidence, Connection, Equality, Status/Skilled, and Safety	DAC	Disabled Access Credit
ACL	Administration on Community Living	DD	Developmental Disabilities
ADA	Americans with Disabilities Act	DFO	Designated Federal Officer
AJC	American Job Centers	DOJ	U.S. Department of Justice
ALJ	Administrative Law Judge	DOL	U.S. Department of Labor
AMC	AMC Theatres	DOT	U.S. Department of Transportation
APSE	Association of People Supporting Employment First	EBP	Evidence Based Practice
Campaign	National Educational Campaign	ED	U.S. Department of Education
CESP	Certified Employment Support Professional	EN	Employment Networks
CIE	Competitive Integrated Employment	ETA	Employment and Training Administration
CMS	Centers for Medicare & Medicaid Services	FACA	Federal Advisory Committee Act
CNA	Central Nonprofit Agencies	FAPE	Free Appropriate Public Education
Commission	The AbilityOne® Commission	FDIC	Federal Deposit Insurance Corporation
CRP	Community Rehabilitation Programs	FLSA	Fair Labor Standards Act
		GAO	Government Accountability Office <sup>1</sup>
		HCBS	Home and Community-Based Services

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<sup>1</sup> On July 7, 2004, the U.S. General Accounting Office changed its name to the U.S. Government Accountability

Office. All in text references refer to reports prior to 2004

HHS	U.S. Department of Health and Human Services	OFCCP	Office of Federal Contract Compliance Programs
I/DD	Intellectual or Developmental Disabilities	OMB	Office of Management and Budget
ID	Intellectual Disabilities	OSEP	Office of Special Education Programs
IDEA	Individuals with Disabilities Education Act	OSERS	Office of Special Education and Rehabilitative Services
IEP	Individualized Education Program	PABSS	Protection and Advocacy for Beneficiaries of Social Security
IPE	Individual Employment Plan	PSA	Public Service Announcement
IRS	Internal Revenue Service	PSE	Postsecondary Education
JWOD	Javits-Wagner-O'Day Act	REDI	Retail Employees with Disabilities Initiative
LEA	Local Education Agencies	RSA	Rehabilitation Services Administration
LRE	Least Restrictive Environment	SAMHSA	Substance Abuse and Mental Health Services Administration
LTSS	Long Term Supports and Services	SEA	State Education Agencies
MH	Mental Health	SHRM	Society for Human Resource Management
MIG	Medicaid Infrastructure Grant	SNAP	Supplemental Nutrition Assistance Program
NIB	National Industries for the Blind	SSA	Social Security Administration
NIDILRR	National Institute on Disability, Independent Living, and Rehabilitation Research	SSDI	Social Security Disability Insurance
NOD	National Organization on Disability	SSI	Supplemental Security Income
NPA	Nonprofit Agencies	SWEP	School Work Experience Programs
OCTAE	Office of Career, Technical, and Adult Education	TANF	Temporary Assistance for Needy Families
ODEP	Office of Disability Employment Policy		

USBLN	U.S. Business Leadership Network
VA	U.S. Department of Veterans Affairs
VR	Vocational Rehabilitation
WHD	Wage and Hour Division
WIOA	Workforce Innovation and Opportunity Act
WIPA	Work Incentive Planning and Assistance
WOTC	Work Opportunity Tax Credit

## Executive Summary

The Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the “Committee”) was established under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of the Workforce Innovation and Opportunity Act (WIOA) signed into law on July 22, 2014, to advise the Secretary of Labor and Congress on:

- Ways to increase employment participation of individuals with intellectual or developmental disabilities (I/DD) and other individuals with significant disabilities through opportunities for competitive integrated employment (CIE);
- The use of the certificate program carried out under Section 14(c) of the Fair Labor Standards Act (FLSA) for employing individuals with I/DD and other individuals with significant disabilities, including ways to improve oversight of such certificates.

The Committee Charter (see Appendix B) detailed the charges to the Committee to address issues, and make recommendations, for ensuring the increase of CIE for individuals with I/DD and other significant disabilities. WIOA defines CIE<sup>1</sup> as work performed on a full or part-time basis (including self-employment) for which an individual is:

1. Compensated at not less than federal minimum wage requirements or state or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by other individuals without disabilities;
2. At a location where the employee interacts with other persons who do not have disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who do not have disabilities and who are in comparable positions interact with other persons; and
3. Presented, as appropriate, with opportunities for advancement that are similar to those offered other employees who are not individuals with disabilities and who have similar positions.

The Committee was comprised of eighteen (18) non-governmental members and seven (7) federal official members. The non-governmental members represent: self-advocates, providers of employment services, representatives of national disability advocacy organizations, experts with a background in academia, employer representatives and others with related expertise on CIE. The work of the Committee began with its first meeting in January 2015, followed by full committee meetings in March, May, July, August, and October 2015, and January, April, July, and August 2016. The Committee’s recommendations are organized around the overall theme that specific areas of capacity building will be necessary in order to increase CIE. Highlights of the Committee’s recommendations follow.

## **Overall Capacity Building**

In order to build more systemic capacity for CIE, there needs to be:

1. Guidance, policies and strategies to prioritize federal funding for CIE,
2. Data collection and analysis requirements for recipients of federal funding based on a common definition of CIE and outcomes,
3. Funding and initiatives to help agencies build CIE capacity, develop national standards of professional competence, and train professionals skilled in facilitating CIE, and
4. A federal interagency task force focused on policies to expand capacity of CIE and advance economic self-sufficiency.

## **Capacity Building for Youth**

For youth to effectively transition to adult employment there needs to be:

1. Early work experiences,
2. Family involvement and support,
3. Professional development and training,
4. Systems integration for seamless transition, and
5. Available and transferable assistive technology

## **Capacity Building through Changes in the Use and Oversight of 14(c) Certificates**

Subminimum wages paid under certificates allowable under Section 14(c) of the FLSA inhibit participation in CIE. To address this, the Committee recommends that:

1. Congress amend the FLSA to allow for a multi-year, well-planned phase out of Section 14(c),
2. The Wage and Hour Division of the U.S. Department of Labor engage in stronger oversight of the current use of 14(c) certificates, and
3. The federal government assists states with building capacity of service systems to provide CIE services as alternatives to those provided under programs using a 14(c) certificate.

## **Building Capacity in the Marketplace**

Increased business and employer engagement will be necessary to increase CIE and will require:

1. Increased and more effective communication and outreach to businesses,
2. Specific business-oriented professional development for employment services personnel,
3. Incentives to create work experiences as preludes to employment,
4. Expansion of available benefits counseling and financial coaching,



5. More accessible transportation,
6. Hiring initiatives in high-growth industries, particularly healthcare,
7. Additional outreach to federal contractors regarding the Office of Federal Contract Compliance Programs (OFCCP) Section 503 regulations which establish disability hiring goals, and
8. Revisions to federal tax incentives and credits available to employers who hire people with disabilities.

### **Capacity Building in Specific Federal Agencies**

Increasing CIE will require partnerships and complementary actions among multiple federal agencies, including these activities:

1. Establishing a cross-agency working group to provide policy guidance and technical assistance on integrated day and wraparound services that complement and maximize CIE and that advance the socioeconomic status and security of people with disabilities,
2. Demonstrating how the waiver of certain requirements in the Ticket to Work program will enable youth receiving Supplemental Security Income/ Social Security Disability Insurance (SSI/SSDI) to access services across systems that lead to CIE, and
3. Developing a policy reform initiative designed to increase the number of SSI/SSDI beneficiaries in CIE and who are self-sufficient.

### **Increasing Competitive Integrated Employment in the AbilityOne® Program**

Reforming the AbilityOne® Program so that it can create CIE opportunities on a broad scale will require:

1. Amending the Javits-Wagner-O'Day Act (JWOD) to fully align the Act with modern federal disability law and policy goals by reforming the criteria for contract procurement selection and for program eligibility,
2. Researching the current use of AbilityOne to identify how the program is serving the target population and to determine steps for improving its ability to create CIE opportunities, and
3. Evaluating the implementation and impact of AbilityOne reforms.

### **Conclusion**

The work of the Committee, and the formation of its recommendations, was intended to increase opportunities for CIE for individuals with I/DD or other significant disabilities. Ensuring that CIE is the first option for people with I/DD or other significant disabilities will increase their employment participation rate and lead to a significant reduction in segregated work and non-

work programs and in the use of Section 14(c) certificates for paying subminimum wages. CIE will create a critical pathway to better economic future and increased economic self-sufficiency for youth and adults with disabilities.

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<sup>1</sup> See statutory definition of competitive integrated employment in the Appendix.

## Introduction: Setting the context

The Workforce Innovation and Opportunity Act (WIOA), signed into law by President Obama on July 22, 2014, makes significant improvements in federal law for Americans with disabilities, including youth transitioning from education to employment, by helping to ensure that these individuals have opportunities to acquire the skills and training needed to maximize their potential and enter competitive integrated employment (CIE). Among the many provisions in WIOA designed to increase employment for all individuals with disabilities is the establishment of an Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the “Committee”) under Section 609 of the Rehabilitation Act of 1973, as amended by Section 461 of WIOA.

The Committee’s overall charge is to prepare findings, conclusions and recommendations for the Secretary of Labor on:

- Ways to increase employment opportunities for individuals with intellectual or developmental disabilities (I/DD) and other individuals with significant disabilities in CIE;
- The use of the certificate program carried out under Section 14(c) of the Fair Labor Standards Act (FLSA) for employing individuals with I/DD and other individuals with significant disabilities, including ways to improve oversight of the use of such certificates.

WIOA<sup>2</sup> defines *competitive integrated employment* as work performed on a full or part-time basis (including self-employment) for which an individual is:

1. Compensated at not less than federal minimum wage requirements or state or local minimum wage law (whichever is higher) and not less than the customary rate paid by the employer for the same or similar work performed by other individuals without disabilities;
2. At a location where the employee interacts with other persons who do not have disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who do not have disabilities and who are in comparable positions interact with other persons; and
3. Presented, as appropriate, with opportunities for advancement that are similar to those offered other employees who are not individuals with disabilities and who have similar positions.<sup>3</sup>

The work of the Committee is intended to bolster WIOA’s goal to address the pervasive unemployment and low workforce participation among individuals with significant disabilities in the United States today. As presented in detail in the Committee’s Interim Report to Congress in

September 2015 ([www.dol.gov/odep/topics/WIOA.htm](http://www.dol.gov/odep/topics/WIOA.htm)), there are many circumstances that illustrate the need for increasing CIE. These circumstances include the widely-documented drastically low unemployment rate and the even lower workforce participation rate for people with I/DD.<sup>4</sup> Although individuals with I/DD as a group have the lowest employment participation rates compared to other disabilities, the employment participation rates of individuals with other significant disabilities is also considered unacceptably low. For example, individuals served by public mental health systems are reported to be unemployed at three times the rate of the general population<sup>5</sup> and are the largest and fastest growing group of public disability income beneficiaries.<sup>6</sup> Increasing CIE for individuals with I/DD as well as those with other significant disabilities is a widely shared goal, but one for which a truly comprehensive federal strategy has yet to be defined and implemented.

For people with I/DD or other significant disabilities, center-based employment, also called sheltered workshops, have long been used as a place to provide “prevocational” services for people deemed as either unemployable in CIE or as “needing training” to prepare them for eventual CIE in their communities. However, center-based employment has been shown to rarely result in CIE, and most participants in center-based employment are paid substantially below minimum wage, as is currently allowed under Section 14(c) of the FLSA (PL 75-718).<sup>7</sup> Currently, an estimated 228,600 people with I/DD and other significant disabilities are being paid subminimum wage under certificates issued by the U.S. Department of Labor (DOL) Wage and Hour Division (WHD).<sup>8</sup> Section 14(c) of the FLSA permits the Secretary of Labor to issue certificates to employers permitting employment at subminimum wage if the Secretary deems this to be necessary to prevent the curtailment of employment opportunities for individuals with disabilities covered under these certificates.<sup>9</sup> DOL last amended the Section 14(c) regulations governing the program in 1989.

Nationally, the focus and attention on increasing the CIE participation rate among individuals with disabilities has been growing rapidly over the past decade. Leadership in this area has been provided by members of Congress, state governors and legislators, federal and state agencies, the business community, and the disability community itself. In determining the most effective strategies for increasing the number of individuals with disabilities participating in CIE, considering the current and future role and impact of the Section 14(c) program is crucial.

Another back drop to the Committee’s work is the evolving federal disability employment policy which presumes that all individuals with disabilities are employable when opportunity and support are available. The notion of the presumption of employability is a prominent underpinning of current “Employment First” initiatives. These are grassroots initiatives advocating for states to make CIE the first option for day services for youth and adults with significant disabilities.<sup>10</sup> As a result, some states have adopted changes in policy and funding that are intended to increase CIE. However, in most states, these Employment First initiatives have

not resulted in a mandate about CIE. Nor have they resulted in any specific action other than non-binding proclamations that building CIE services is a worthy goal. However, at its core, the Employment First movement represents an emerging catalyst for further promoting the notion of presumed employability and complementing the push for ever stronger legislative and policy support of CIE.

In light of these realities, Congress established the Committee. According to DOL Secretary Thomas E. Perez, in his blog<sup>11</sup> announcing its formation, “competitive integrated employment works — for individuals, for employers and for society. Models have shown repeatedly that people previously considered ‘unemployable’ *can* work, *can* be productive and *can* achieve independence. Thus, investing in this approach is a wise use of public funds.” In light of these truths, finding ways to make CIE accessible for individuals with I/DD and other significant disabilities should be a shared priority of federal and state governments and disability community stakeholders. Creating opportunities, removing barriers, and expecting a substantial improvement in the workforce participation rate of individuals with I/DD and other significant disabilities are all essential elements to ensure full economic participation and self-sufficiency. Working adults with disabilities are two times more likely to be living in poverty than their non-disabled peers. CIE is a pathway out of poverty that changes expectations about income production, savings, and economic mobility. As the nation recently celebrated the 25<sup>th</sup> anniversary of the passage of the Americans with Disabilities Act (ADA), it is indeed fitting that attention is turned to vastly improving opportunities for CIE for those individuals with disabilities who have historically had the least amount of opportunities for gaining access to this critical aspect of our American way of life.

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<sup>2</sup> Rehabilitation Act of 1973, Section 7(5) as amended by WIOA.

<sup>3</sup> See statutory definition of competitive integrated employment in the Appendix.

<sup>4</sup> Butterworth, J., Smith, F. A., Hall, A. C., Migliore, A., Winsor, J., & Domin, D. (2014). *StateData: The National Report on Employment Services and Outcomes*. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

<sup>5</sup> Lutterman, T. (2013). *Uniform reporting systems results and national outcome measures (NOM) trends*. NASMHPD/NRI.

<sup>6</sup> Drake, R., Skinner, J., Bond, G., & Goldman, H. (2009). Social Security and mental illness: Reducing disability with supported employment. *Health Affairs*, 28, 76-770.

<sup>7</sup> Citera, R.E. (2011). Does Being in Sheltered Workshops Improve the Employment Outcomes of Supported Employees with Intellectual Disabilities? *Journal of Vocational Rehabilitation*, 35, 21-27.

<sup>8</sup> U.S. Department of Labor's Wage and Hour Division Presentation to the Committee, January 22, 2015. The total number of individuals working on section 14(c) is not specifically tracked. The number provided is an estimate based on the number of workers with disabilities who were paid subminimum wages by the certificate holder during their most recently completed fiscal year, as reported during the certificate application process.

<sup>9</sup> Employers, who have been issued a special certificate under section 14(c) of the Fair Labor Standards Act, are authorized to pay a subminimum wage to individuals whose earnings or productive capacity is impaired by a disability.

<sup>10</sup> Kiernan, W., Hoff, D., Freeze, S., & Mank (2011). Employment First: A beginning, not an end. *Intellectual and Developmental Disabilities*, 49, 300-304.

<sup>11</sup> To read the full blog by Secretary Perez, see: <http://blog.dol.gov/2015/01/05/ensuring-opportunity-extends-to-all/>

# Chapter One: Increasing Competitive Integrated Employment will require Capacity Building

## Introduction

Despite the fact that presumed employability of people with significant disabilities is implicit in relevant federal legislation,<sup>12</sup> the current service capacity and associated federal and state policies have made it difficult to make this concept a reality. To date, only a handful of states prioritize funding for competitive integrated employment (CIE) in a way that has translated to meaningful employment rates for people with significant disabilities.<sup>13</sup> To broadly build capacity for CIE, realignment of state and federal policies and funding will be necessary. In practice, CIE has still not become a public policy and funding priority, despite research that center-based employment, or sheltered workshops, and facility-based day services cost more and produce poorer outcomes than CIE.<sup>14</sup> Although there is considerable inconsistency in how data are collected, existing data nevertheless document wide variability among states in the percentage of people receiving publically-funded day services that result in CIE, ranging from 10 percent to over 60 percent.<sup>15</sup>

This disparity in CIE participation across states is a reflection of widely inconsistent local and state funding structures. Reimbursement rates that cover various forms of “vocational” service categories under the Medicaid authorities (including Home and Community-Based Services (HCBS) waivers, state plan services, and managed care authorities) vary across states. Medicaid-funded disability service systems often align their policy and funding in ways that may unintentionally support segregation over integration in their vocational and other day services. For example, a provider may be reimbursed at a higher rate for group-based placement than for individualized supported or customized employment, thus encouraging group-based outcomes such as sheltered workshops or facility-based day habilitation. Typically, service in segregated settings is funded at a higher rate than services that lead to CIE. Some states pay service providers for a unit of service by the hour, which allows people to receive different types of day services; and other states pay by the day, forcing people who only work part-time forgo additional hours of support or to abandon CIE for full-time day programs like sheltered workshops and day habilitation. Some states pay by service benchmarks that incentivize CIE, e.g., completing a job development plan, and other states pay a flat fee-for-service rate for any service delivered in a time increment such as an hour or a day. Finally, in many states the reimbursement rates often make it more economically advantageous for service providers to serve people in groups rather than individually, even though the service may be counted as integrated employment in state data. Although day services and supported employment are among those services allowable under the Centers for Medicare & Medicaid Services (CMS) Medicaid Waiver program, there is not an expectation that these services will result in specific

quantifiable employment outcomes. In effect, the way in which most states fund services incentivizes segregation over integration.

Moreover, in the HCBS Waiver program, data that are collected by one state Medicaid agency are not necessarily comparable with that of another state. Each state Medicaid agency tracks services differently. For example, while CMS does have a definition of supported employment, there is no consistent definition of what counts as CIE, leading to inconsistent tracking of data, as indicated above. Consequently, CMS does not have a standard data collection system to track employment services rendered to Medicaid beneficiaries participating in its HCBS Waiver program.

Conversely, the federal vocational rehabilitation (VR) system has longstanding specific program guidance on employment in integrated settings and requires states to collect and manage service and outcome data so that it can be documented into the Federal RSA 911 system. In this way, it is possible to identify and compare the specific outcomes generated by the VR systems in different states. However, this does not align with how data is collected by CMS, which does not include universal data collection on employment outcomes. This makes it difficult to align these federal agencies to jointly promote CIE. Among other things, the different Medicaid and VR accountability systems make collaboration difficult at the federal and state agency levels for achieving common outcomes for individuals served by both systems.

Accurate, concise, and quality data are therefore necessary to determine both system effectiveness and develop policy and practices. Without good data, services end up being driven by suppositions and myths about what works and what does not. Neither the federal government nor most states have a consistent data system that can provide longitudinal information across systems or track participation in services that lead to CIE services outcomes.

The resulting service system is a mix of different services that include sheltered employment, facility-based day services, non-facility-based day services, group employment, and individual supported or customized employment. Some people exclusively receive one of these services, whereas others receive various combinations of these services. Typically, services that lead to CIE are significantly less available than other service options.<sup>16</sup>

Even when services are intended to result in CIE, the design and implementation of services are not reflective of Evidence Based Practice (EBP), that is, practice grounded in research and shown to be effective. For example, there is considerable research support for providing experience in community-based workplaces performing actual work tasks as a tool for exposing individuals to career and employment options and as a way of determining work preferences and teaching work skills.<sup>17,18</sup> However, this EBP strategy is inconsistently applied, or alternative and ineffective strategies are employed, such as “work readiness training” in sheltered workshops,



which compounds the ongoing challenge service providers face in successfully engaging employers who might hire individuals with significant disabilities.<sup>19</sup> These circumstances point to an obvious need for elevating the skills of practitioners in the field who are supporting individuals with significant disabilities in seeking and obtaining CIE. Delivering services that result in CIE requires a highly skilled workforce reaching a standard that has yet to be set nationally. In order to develop this workforce there needs to be access to quality training and a rebalancing of funding to pay professional wages that acknowledge the need for high standards to achieve high CIE outcomes.

Finally, the service delivery systems available to help individuals with disabilities obtain CIE include not only disability service systems, but also mainstream employment systems that are increasingly opening their doors to individuals with the full range of disabilities. Thus, the needed alignment and capacity building cuts across not only disability service systems such as special education, VR, mental health, and Medicaid, but also the public workforce development system through American Job Centers (AJCs), the mainstream education and higher education systems, programs funded by the U.S. Department of Commerce and Small Business Administration, and others. The goals of the service delivery system must be not only to improve CIE outcomes, but also advance longer term economic stability and mobility for individuals with significant disabilities. Recognizing the importance of this goal, Title I of WIOA mandates the delivery of financial literacy education for youth and adults with and without disabilities to improve knowledge and better inform financial decision making.

In order to move the service delivery system toward universally promoting and maximizing participation in CIE, the Committee recommends changes in the following areas: (1) funding of employment services; (2) collection and use of employment service and outcome data; (3) training of personnel supporting CIE; and (4) the oversight and direction provided by federal agencies involved in CIE funding and policy. Specific recommendations and related details for each area are presented in this chapter.

## **Recommendations**

- 1. The U.S. Department of Labor (DOL) should lead a collaboration of federal agencies to identify, align, and develop clear policies and practices across all federal agencies that make CIE a funding priority for all individuals with significant disabilities.*

Collaborative efforts should include Workforce Innovation and Opportunity Act (WIOA) committee members DOL (including Wage and Hour Division, Employment and Training Administration, and Office of Disability Employment Policy); the Social Security Administration (SSA); the U.S. Department of Education (ED) represented by the Rehabilitation Services Administration (RSA); and the U.S. Department of Health and Human Services (HHS) (including the Centers for Medicaid and Medicare Services (CMS), and Administration on

Community Living (ACL). Other agencies participating should include ED representation from the Office of Special Education Programs (OSEP), the Substance Abuse and Mental Health Services Administration (SAMHSA) of HHS, and the U.S. Department of Justice (DOJ). From this collaboration, participating agencies should agree on common principles that align cross-agency funding priorities and develop guidance for states on policy, practice and accountability measures that make CIE the priority.

### Recommendation Detail

- a. To inform the recommended collaboration effort, federal agencies should:
  - i. Identify states/state programs that are currently most effective in delivering services resulting in CIE outcomes for people with significant disabilities, and describe the funding strategies they are using.
  - ii. Develop guidance on how to braid, blend, and fully leverage available federal funding to improve employment outcomes and advance economic self-sufficiency for people with significant disabilities. This recommendation is relevant to CMS and its funding of CIE through all Medicaid authorities, including waivers, state plan services, and managed care authorities. CMS should issue specific guidance on how to use the various Medicaid authorities (especially Section 1905(a) of the Social Security Act) for funding supported employment for people with serious mental illness, as many of the Medicaid authorities commonly used to fund supported employment for other populations are not always a viable option for this population. This recommendation is also relevant to the RSA since WIOA requires a focus on CIE and development of strategies that avoid use of center-based, group or other segregated employment settings.
  - iii. Through its use of existing demonstration authorities or by seeking Congressional authorization for new authorities, CMS and other federal agencies should provide additional financial support and incentives to states, providers and/or participants beneficiaries to help individuals with significant disabilities achieve CIE outcomes, including by:
    1. Providing an enhanced federal match rate to states for CIE outcomes (similar to Community First Choice) or enhanced funding to providers or beneficiaries to incentivize CIE outcomes over other segregated employment or day services.
    2. Offering time-limited increased federal funding to states to help transition people from segregated employment settings to CIE (for

example, enhanced federal match rate similar to the Money Follows the Person Program for residential transitions).

- iv. Developing demonstration or other pilot efforts with robust data collection requirements to determine what is effective in assisting states to improve CIE outcomes.
  - v. Supporting existing strategies and encouraging new pay for performance strategies that increase access to CIE, as well as financial education and coaching. CMS and other federal agencies should issue guidance on allowable pay for performance methodologies and initial outcomes (including milestones) to be measured and reported and that could be used by states. These federal agencies should also provide technical assistance to states interested in using these payment strategies.
  - vi. Providing technical assistance to states through internal federal agency expertise (like the Office of Disability Employment Policy's Employment First State Leadership Mentor Program) and/or funding for the use of external expertise from other states and programs that are successfully financing and implementing CIE strategies. Technical assistance should include funding strategies, capacity-building strategies at the state and provider level, and professional competence in delivering CIE.
- b. For effective implementation of WIOA and the best use of funding that leads to improved CIE outcomes, OSEP and RSA should clarify the importance of the following practices:
- i. OSEP should require that all youth with significant disabilities:
    - 1. Begin transition services or pre-employment transition services at or prior to age 14;
    - 2. Gain opportunities for integrated work experiences and access to assistive technology and assistive technology assessments conducted by a qualified entity to assess the needs of people with significant disabilities, job coaching and other supports for a period of not less than 24 months;
    - 3. Coordinate with VR if students are considering center-based or segregated employment.
  - ii. RSA, in implementing WIOA, should ensure:
    - 1. That youth with disabilities first apply for VR services in order to receive transition services or other VR services;

2. That students and youth in supported employment should be provided opportunities to work toward a CIE goal identified in an individual employment plan (IPE) for a reasonable period of not more than 24 months. That period may be extended as necessary, in order to achieve the employment outcomes identified in the IPE;
  3. That extending the time limit of supported employment services from 18 months to 24 months in WIOA refers to the provision of supported employment services;
  4. That funds for extended services for youth with the most significant disabilities may be used to provide extended services for up to four years or until the individual no longer meets the definition of “youth with a disability” as defined in WIOA title IV;
  5. That eligibility should be presumed for VR services for anyone in 14(c) employment who expresses interest in CIE and anyone considering center-based or segregated employment. To the extent any individuals in these categories are not already covered by existing law and policy regarding presumptive eligibility, RSA should take regulatory action and/or seek statutory changes as necessary to fully implement this recommendation.
- c. Together OSEP and RSA should develop close working agreements between their agencies, including at the state and local levels, that encourage:
1. Students with significant disabilities to leave school either employed or with a post-school employment plan that leads to employment;
  2. Students with significant disabilities to participate in transition programs that include integrated work experience, internships, apprenticeships or similar job experiences; and
  3. State Education Agencies (SEAs) and VR agencies to report results of state and local efforts to their respective federal agencies.
2. *Congress should provide CMS with capacity-building funding and the authority to maximize opportunities for individuals to have access to highly skilled employment professionals working in community employment agencies, as well as the opportunity to receive services in the most integrated settings and not in settings that have the effect of isolating individuals from the broader community. This funding could be modeled after the state Medicaid Infrastructure Grant (MIG) initiatives and/or the funding strategies identified in a.iii. above.*

### Recommendation Detail

- a. Congress should provide CMS with the authority to develop new Medicaid funding opportunities and/or issue further guidance about how existing Medicaid funding could be used to financially support training, development and ongoing technical assistance for direct support staff and providers. This will help increase capacity for providing supported employment and customized employment services that lead to improved CIE outcomes.
  - b. Guidance should be issued jointly by CMS and RSA that directs state Medicaid and VR agencies to work together to explore an agreed-upon rate structure across both systems that assures a consistent set of rates/reimbursement for both short-term and long-term services related to discovery, career planning, integrated work-based learning experiences, and supported/customized employment. This will make it possible for people who are eligible for both services (and the providers serving them) to obtain a consistent level of support for these services as they transition from VR resources to longer-term supports and services funded by Medicaid authorities.
3. *The Department of Health and Human Services (HHS) (including CMS, ACL, and SAMHSA) and RSA, DOL, and the designated I/DD, Mental Health, and VR agencies in each state, should: promote and fund innovative projects that result in new CIE programs within existing organizations as well as new organizations that provide only CIE services; and facilitate program transition away from sheltered employment and other segregated day services into CIE.*

### Recommendation Detail

- a. State I/DD and mental health agencies, state VR agencies, state education agencies, and their partners should become familiar with the *Olmstead* settlement agreements between DOJ and Rhode Island and between DOJ, private plaintiffs, and Oregon, both of which require these states to change their service systems to decrease the use of segregated center-based day services and increase the capacity of CIE, and should keep abreast of future *Olmstead* guidance and court decisions related to CIE.
- b. State labor, VR, I/DD, and mental health agencies will need to collaborate to establish statewide public and private sector employer initiatives that encourage innovation and piloting of employer-driven models that enhance services and expand outcomes. States should support innovative models so that new services can emerge for individuals new to the system by promoting, funding and supporting:
  - i. CIE pilots or start-ups
  - ii. School-to-work transition pilots

- iii. Training and technical assistance for pilots and start-ups
- c. Providers exclusively or primarily offering sheltered, non-integrated employment services will need technical assistance to transform services to focus primarily on CIE service provision. CMS, VR, partnering federal agencies, and related state agencies, should provide short term funding for transformation efforts and make technical assistance available regarding:
  - i. Business models including reimbursement strategies that effectively support CIE
  - ii. Deployment of staff to provide services that lead to CIE
  - iii. Training, supporting and managing staff that provide supports for CIE
- 4. *Federal agencies that provide funding for people with disabilities to obtain CIE should establish a common definition of CIE and develop common outcome data points on which states that receive funding must regularly report to ensure accountability.*

Recommendation Detail

- a. The common working definition of CIE should be derived from the WIOA and be consistent with the goals described in WIOA and the Americans with Disabilities Act, as interpreted by the Supreme Court’s decision in *Olmstead*, and require that the “employer of record” be the same as for people without disabilities and not the service provider.
- b. The task of defining a common working definition of CIE should be led by DOL and include representatives from ED, HHS, SSA, and DOJ.
- c. The task of developing outcome data requirements should be led by HHS Centers for Medicare and Medicaid Services (CMS) and include other relevant agencies in HHS, DOL, ED and SSA.
- d. Regular collection and reporting by states of individual outcome data should be required to ensure accountability of funding and, at a minimum, include:
  - i. number of people employed in jobs that meet the definition of CIE, including that the “employer of record” be the same as for people without disabilities and not the service provider,
  - ii. wages earned,
  - iii. hours worked
  - iv. length of time in CIE, and
  - v. benefits (e.g., paid days off)

- e. Additional consideration should also be given to collecting data on:
  - i. income level over time,
  - ii. taxes paid, and
  - iii. reduction of public income support (cash benefits from SSA, Temporary Assistance for Needy Families-TANF, Supplemental Nutrition Assistance Program-SNAP, and the reduction of medical coverage resulting from primary insurance through employers)
- f. The studies that link employment to other social and health benefits for people with serious mental illness have been helpful in demonstrating the importance of employment. Federal agencies, in particular the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), SSA, and Office of Disability Employment Policy, should study and/or provide support for studying the impacts of employment on all people with significant disabilities. The studies should look at the impact of employment on:
  - i. utilization of healthcare services, including long-term services and supports, and utilization of acute services such as hospitals, emergency rooms, and crisis services,
  - ii. housing economic and stability,
  - iii. use of public benefits, including public income supports, and
  - iv. employer-based health benefits that offset public health benefits.
- g. Federal agencies that provide funding for CIE should provide guidance, technical assistance and resources to states for implementing data systems that will collect and report the minimum individual CIE data including number of people employed in CIE, wages received, hours worked and paid days off. Congress should ensure states have sufficient funding to build effective data collection infrastructures.
- h. Data on wages, hours, and other employment information is collected in various programs such as TANF, SSA, VR, and others. Those data systems should be examined to determine if they can contribute to building the recommended State data collection process. The review should be led by the DOL and include HHS, ED, and SSA.
- i. Federal agencies should ensure that state-level data and outcomes are publicly reported in consumer friendly and accessible formats so that the impact of CIE can be assessed and people with disabilities and their families can make good decisions about choosing the best pathway to employment.

5. *The state Medicaid agency, the state department of labor, the state VR agency, the state mental health agency, the designated state I/DD agency, and the state education agency in each state should: encourage the development of state/local standards or adopt national standards<sup>20</sup> of professional competence in providing services to support CIE; and support professional development that includes the development of organization leaders, program managers, and professional employment staff responsible for delivering services to support CIE.*

#### Recommendation Detail

- a. CIE capacity-building for service provider staff needs to be driven by a common standard by which performance can be developed, supported and measured so that:
- i. Pre-service and in-service training, ideally framed by certification standards, and technical assistance related to the expectation, value and outcome of CIE and skill development to facilitate CIE is provided at various levels, including:
    1. Workforce development/employment and education/training service staff of all WIOA core programs and key partners at all levels of employment (i.e. executive, supervisory, and direct service personnel)
    2. State agency workforce development/employment and education/training vendors
    3. Certification, licensing, and quality assurance personnel associated with respective state agency workforce development/employment and education/training partners
    4. Teachers and educators at all levels (early learning, pre-K, K-12, special education, higher education), and
    5. Medical professionals who treat individuals with disabilities, including individuals with acquired disabilities (e.g. doctors, nurses, physical therapists, occupational therapists, speech therapists, medical specialists, trauma medical staff, etc.)
  - ii. Pay scales for disability support professionals take into account certification standards so that these professionals are compensated at a rate that reflects their responsibility and expected competence in delivering services that support CIE. An effective employment system that supports CIE is contingent on the performance and retention of skilled disability support staff. The return on the federal investment in services that support CIE is consequently enhanced.



- b. CMS and RSA should collaborate with DOL, SAMHSA, ACL, and OSEP to develop new tools and supports for CIE and the advancement of economic self-sufficiency. These tools for assessing an individual's capabilities, financial health, and employment potential should be based on current, mainstream human performance methodologies and implemented by all front line case management professionals to guide the development of services and supports.
  - c. ED should make personnel preparation grants to institutions of higher education to development the next generation of employment professional staff who will be implementing CIE.<sup>21</sup>
  - d. HHS, through NIDILRR, as well as other federal agencies that fund employment research, should prioritize research and development on CIE to establish current evidence about what constitutes effective delivery of services that support an outcome of CIE and translate this knowledge into training curricula and practice.
6. *Congress should direct the formation of an interagency task force to develop an implementation plan for these capacity-building steps for increasing CIE and advancing economic self-sufficiency. At a minimum, this task force should include representatives from: DOL (ETA and ODEP), ED (RSA, OSEP), HHS (SAMHSA, CMS, and ACL), SSA, DOJ, Federal Deposit Insurance Corporation (FDIC), and Treasury.*
- a. The task force should be charged with developing the implementation plan within a specified time frame.
  - b. The implementation plan will be the framework for implementing the activities outlined under the previous recommendations.

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<sup>12</sup> The Ticket to Work and Work Incentives Improvement Act of 1999, The Individuals with Disabilities Education Improvement Act of 2004, and the Workforce Innovation and Opportunity Act are each predicated on the expectation that services delivered through their respective mandates are available to and will benefit all individuals with disabilities to whom the services apply.

<sup>13</sup> Kiernan, W., Hoff, D., Freeze, S., & Mank (2011). Employment First: A beginning, not an end. *Intellectual and Developmental Disabilities*, 49, 300-304.

<sup>14</sup> Cimeria, R.E., R.E. (2012). The economics of supported employment: What new data tells us. *Journal of Vocational Rehabilitation*, 37, 109-117.

<sup>15</sup> Butterworth, J., Smith, F. A., Hall, A. C., Migliore, A., Winsor, J., & Domin, D. (2014). *StateData: The National Report on Employment Services and Outcomes*. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

<sup>16</sup> Butterworth et al., op.cit.

<sup>17</sup> Carter, E. W., Austin, D., & Trainor, A. A. (2012). Predictors of postschool employment outcomes for young adults with severe disabilities. *Journal of Disability Policy Studies*, 23, 1-14.

<sup>18</sup> Gold, P., Fabian, E., & Luecking, R. (2013). Job acquisition by urban youth with disabilities transitioning from school to work. *Rehabilitation Counseling Bulletin*, 57, 31-45.

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<sup>19</sup> Luecking, R. (2011). Connecting employers with people who have intellectual disability. *Intellectual and Developmental Disabilities*, 49, 261-273.

<sup>20</sup> See Chapter Four, Building Capacity in the Marketplace, Recommendation 2 regarding further discussion on national standards.

<sup>21</sup> See also Chapter Two: Capacity Building for Youth, Recommendation 6 for further discussion of professional development.

## Chapter Two: Capacity Building for Youth

### Introduction

The challenges facing youth with disabilities as they prepare for the transition from public secondary education to adult employment have been well documented. This transition can be a particularly difficult time for many students and youth with intellectual and developmental disabilities (I/DD) and other significant disabilities and their family members. As presented in detail in the Interim Report,<sup>22</sup> these challenges are reflected in the continuing poor adult employment outcomes and poverty status. The most salient challenges include limited access to work experiences during secondary school, disjointed service delivery by multiple youth-serving agencies, challenges accessing necessary assistive technology, uneven access to information by families, and lack of staff training in competitive integrated employment (CIE) strategies. These barriers must be mitigated to maximize access to CIE and to minimize the impact of disjointed service delivery as schools and post-school service providers assist youth and their families to achieve CIE and careers.

The longstanding challenges to effective school-to-career transition for youth with disabilities have led to recent attempts to synthesize what works in transition and to suggest ways of addressing these challenges. In particular, there is a growing body of research showing that work experience and CIE during secondary school years predicts successful post-school employment.<sup>23,24</sup> Notably, post-school employment success is most likely to occur when: work experiences happen throughout secondary school and begin early in secondary school; when integrated paid work is experienced before students exit school; and when participation in work experience is supported by families.<sup>25</sup> Further, research evidence informs us that students are especially likely to be successful in pursuing career pathways when their families expect them to be employed and when their families are supported in navigating linkages with public post-school entities that may support the transition needs of youth-- including vocational rehabilitation, intellectual and developmental disabilities and mental health agencies, workforce development agencies, and other public entities.<sup>26</sup>

In fact, collaboration among multiple systems is often necessary to expedite service delivery so that the student acquires, prior to high school exit, community-based work experiences and a competitive integrated job. Done well, such collaboration can result in the student exiting school already employed. The movement from school to employment and adult life is thus “seamless” because there is no interruption of service, support, and employment status after school exit. Jurisdictions in which systems collaborate to create work experiences and employment have demonstrated notable success in improving employment outcomes. Multiple demonstration models that feature this type of collaboration (e.g., Project Search,<sup>27</sup> Transition Systems

Integration Model,<sup>28</sup> Seamless Transition Model<sup>29</sup>) have led to high levels (60 to 70%) of CIE outcomes for students with I/DD and other significant disabilities. Seamless transition for youth who benefit from assistive technology also requires collaboration so that the student can access assistive technology as a work accommodation and so that the technology follows the student from school to the workplace.<sup>30</sup>

Finally, it is important to note that the Workforce Innovation and Opportunity Act (WIOA) reflects many of the features youth with disabilities need for transitioning to employment. There is much in WIOA that represents strong support for employment of youth with I/DD and other significant disabilities. These include reducing the use of subminimum wages, a requirement for school/vocational rehabilitation (VR) collaboration, targeted supported employment services funds for youth with the most significant disabilities, and especially, the designated VR funds for Pre-Employment Transition Services, which include services to support the kinds of work experience that are key to successful transition to CIE.

To realize the promise of the research findings and noted demonstrations, as well as the intent of the WIOA, broad-scale capacity must be built for the professionals who implement programs for transition age-youth, the programs themselves, and the federal and state services systems. A critical component for the effective implementation of high-quality transition services for youth with significant disabilities is competency-based professional development programs that are focused on CIE outcomes.<sup>31</sup>

Accordingly, based on the need to mitigate continuing challenges, and to learn from research and effective demonstration models, the Committee's recommendations for transition focus on five general areas: early work experiences, family involvement and support, professional development and training, systems integration for seamless transition, and assistive technology.

## **Recommendations to Bolster Early Work Experiences**

1. *The U.S. Department of Education (ED), Office of Special Education Programs (OSEP), within its oversight authority of Individuals with Disabilities Education Act (IDEA), should encourage the use of Indicator 14 to strengthen opportunities for youth with disabilities to gain paid integrated work experiences, including:*
  - a. Annual IDEA Indicator 14 reporting on all school exiters, to include postsecondary education and/or CIE with specific data on type of employment that match student choice, hours worked, and wages earned,
  - b. States education agencies (SEAs) working with local education agencies (LEAs) to develop improvement plans for lower-performing schools as evidenced by IDEA indicator 14 post-school outcome data, and

- c. SEAs establishing policies for technical assistance to lower performing schools as evidenced by IDEA Indicator 14 post-school outcome data.
2. *ED should invest in high-quality multivariate correlational research to move from promising practices to evidence-based practices that would document new models and transition assessment methods and/or tools to move youth from school to careers.*
  3. *Congress should reauthorize IDEA and the Carl Perkins Career and Technical Education Improvement Act to align with WIOA and expand responsibilities of programs funded through the Act in order to support early paid work experiences for youth with the most significant disabilities. Specifically, Congress should amend IDEA to support:*
    - a. setting of transition goals that are based on CIE first and “presumed employability” of all individuals,
    - b. a requirement for a minimum of one competitive integrated job prior to high school exit that is documented as a transition service,
    - c. required participation of both the state vocational rehabilitation services agency and the state intellectual/developmental disabilities agency at Individualized Education Program (IEP) meetings of transition-age youth, and/or or other agencies responsible for providing or paying for transition services,
    - d. prohibition of Section 14(c). subminimum wage employment or services as an allowable transition service or post-school outcome, and
    - e. the age of concentrated transition planning to begin no later than 14.

## **Recommendations for Family Expectations and Support**

4. *ED/OSEP should encourage SEAs and LEAs to use quarterly ongoing progress monitoring and reporting to parents and include a review of transition services and progress made toward achieving transition-to-career goals.*
5. *ED, the U.S. Department Health and Human Services, and the Social Security Administration (SSA) should incorporate into grant priorities, training requirements, and activities, stronger guidance on post-school predictors of obtaining CIE, and resources for families.*
  - a. Specifically, federal agencies should look to enhance grant priorities and other funding sources that support families of children and youth with intellectual and developmental disabilities as well as other significant disabilities. These include Parent Training and Information Centers, Community Parent Resource Centers, Family-to-Family Health Centers, IDEA Parts B and C grantees, Family Support Programs, and Statewide Family Network Programs.

- b. Stronger guidance and grant-funding requirements are needed in these areas:
  - i. Information to families of students with disabilities about strong predictors of post-school success, to include paid, community-based, integrated work experiences prior to school exit.
  - ii. Family engagement strategies to include:
    - 1. support for the whole family in working toward shared goals for their children,
    - 2. a clear role for family participation,
    - 3. a role for successfully-employed self-advocates and their families to mentor students and their families from diverse cultures who are learning about their own possible career pathways,
    - 4. career exploration opportunities,
    - 5. building students' self-advocacy and self-determination skills, including making informed financial decisions and improving financial capability,
    - 6. progress monitoring at key transition stages en route to achieving job of choice (from early intervention, middle school, high school, to post-school, and including CIE and postsecondary education), and
    - 7. sensitivity to cultural diversity among families.

## **Recommendations for Professional Development and Training**

- 6. *ED/OSEP should improve professional support and training to help students make meaningful progress toward CIE by:*
  - a. updating all personnel and professional development grant programs and related funding priorities (for general and special educators), to incorporate provisions related to predictors of post-school success for youth with significant disabilities,
  - b. including strategies to address the specific needs of culturally diverse families,
  - c. incorporating assessments of teacher trainee ability within special education teacher preparation programs, and
  - d. disseminating information to State Education Agencies about predictors of post-school success in teacher preparation programs and post-school outcome data on youth with significant disabilities.

7. *Congress should reauthorize the Higher Education Act to:*
  - a. reflect predictors of post-school success for youth with significant disabilities, and
  - b. update personnel and professional development evaluation monitoring components accordingly to ensure general and special education educators are prepared to facilitate high quality post-school outcomes for youth with disabilities.

### **Recommendations for Systems Integration and Seamless Transition**

8. *Congress should provide limited authority to the four relevant federal agencies – ED (RSA, OSEP, and the Office of Career, Technical, and Adult Education-OCTAE); HHS (Centers for Medicare & Medicaid-CMS, Administration for Community Living-ACL, Substance Abuse and Mental Health Services Administration-SAMHSA); the U.S. Department of Labor (DOL) (Employment & Training Administration-ETA; Office of Disability Employment Programs-ODEP); and SSA – to waive requirements that make it difficult for states to use and braid funds targeted at transition-age students with significant disabilities (those students participating in Alternate Assessments as defined in Every Student Succeeds Act (signed into law on December 10, 2015))*
9. *Congress should require these federal agencies to collaborate in order to develop opportunities for states to support local pilots that can demonstrate success when provided the opportunity to combine resources across federal programs for implementing ambitious yet achievable plans for comprehensive reform and create coordinated, seamless and sustainable CIE outcomes and advance economic self-sufficiency for youth with significant disabilities. Authority should be secured to:*
  - a. waive statutory and/or regulatory requirements that make it challenging for states to effectively use and braid funds due to payer of last resort policies,
  - b. structure a pilot that allows flexible use of funds and incentive payments for achieving CIE outcomes and advancing economic self-sufficiency for youth with significant disabilities,
  - c. support alignment of required outcomes and reporting across relevant federal funding streams supporting youth with the most significant disabilities,
  - d. support presumptive eligibility processes across programs participating in the pilots, and
  - e. ensure access to supports and services needed for maintaining CIE – including assistive technology, transportation, and financial education and coaching.
  - f. The Pilot Projects should:

- i. target youth with significant disabilities whose achievement is measured against alternative academic achievement standards (these students constitute a small group for initial investment, are most at risk of being referred to 14(c) employment, and are often the most costly to serve in adult systems),
  - ii. require adoption of evidence-based predictors of post-school success and incentivize capacity-building efforts within federal employment programs, including technical assistance and training, to serve youth with significant disabilities,
  - iii. include a robust data collection and evaluation component that tracks participant outcomes for a minimum of five years after exiting post-secondary education, and
  - iv. support state and local programs in developing innovative, best practices for the hardest-to-serve populations, focused upon students with significant disabilities, including those in rural communities and those who are disproportionately underserved, by incentivizing outcomes and considering pay-for-performance models.
- g. If such pilots can demonstrate on a limited basis that increasing flexibility across federal programs results in improved longitudinal outcomes for this small group of students who have traditionally experienced very low success rates, the models could be scaled to incorporate a broader group of students with significant disabilities. Additionally, by limiting pilots to this small group of students, the likelihood of granting a broader flexibility is higher.

## **Recommendation for Assistive Technology**

*10. The U.S. Department of Justice and ED should collaborate to issue specific joint agency guidance regarding Assistive Technology and quality Assistive Technology assessments as connected to the interpretation of IDEA's Free Appropriate Public Education (FAPE) and Least Restrictive Environment (LRE), WIOA Section 511, and Title II of the Americans with Disabilities Act's effective communications requirements and integration mandate (Olmstead). Specific guidance should include:*

- a. evidence-based practices that require supplementary aids and services to be provided in a competitive, community-based, integrated employment setting,
- b. strategies to support education personnel and employment service organizations,
- c. requirements that local and state entities (including LEAs, SEAs, VR, and Medicaid) develop joint policies, including developing or incorporating into existing interagency agreements, clarifying funding responsibilities for assistive technologies that students



- need to access CIE, and eliminate barriers to continued access to assistive technology as a work accommodation, allowing the technology to follow students from school to the workplace,
- d. requirements to regularly review and reassess an individual's assistive technology needs, and
  - e. a strengthened review of access to assistive technology for students with significant disabilities as part of state oversight, monitoring, and enforcement strategies.
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<sup>22</sup> Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, Chapter Two: Transition to Careers, September 2015.

<sup>23</sup> Carter, E. W., Austin, D., & Trainor, A. A. (2012). Predictors of post school employment outcomes for young adults with severe disabilities. *Journal of Disability Policy Studies*, 23(1), 50-63.

<sup>24</sup> Test, D. W., Mazzotti, V. L., Mustian, A. L., Fowler, C. H., Kortering, L. J., & Kohler, P. H. (2009). Evidence-based secondary transition predictors for improving post-school outcomes for students with disabilities. *Career Development for Exceptional Individuals*, 32, 160–181.

<sup>25</sup> Wehman, P., Sima, A., Ketchum, J., West, M., Chan, F. & Luecking, R. (2014). Predictors of successful transition from school to employment for youth with disabilities. *Journal of Occupational Rehabilitation*, 25, 223-234.

<sup>26</sup> Carter, et al., op cit., Test, et al., op cit.

<sup>27</sup> Schall, C., Wehman, P., Brooke, V., Graham, C., McDonough, J., Brooke, A., Allen, J. (2015). Employment interventions for individuals with ASD: The relative efficacy of supported employment with or without prior Project SEARCH training. *Journal of Autism and Developmental Disorders*. Advance online publication. doi: 10.1007/s10803-015-2426-5.

<sup>28</sup> Certo, N., Luecking, R., Murphy, S., Brown, L., Courey, S., & Belanger, D. (2009). Seamless transition and long-term support for individuals with severe intellectual disabilities. *Research and Practice for Persons with Severe Disabilities*, 33, 85-95.

<sup>29</sup> Luecking, D.M. and Luecking, R. (2015). Translating research into a seamless transition model. *Career Development and Transition for Exceptional Individuals*, 38; 1, 4-13

<sup>30</sup> Hess, J., Gutierrez, A. (2009). Family information guide to assistive technology and transition planning. Academy for Educational Development, Washington, DC.

<sup>31</sup> Morningstar, M. E., & Mazzotti, V. L. (2014). *Teacher preparation to deliver evidence-based transition planning and services to youth with disabilities*. University of Florida, Collaboration for Effective Educator, Development, Accountability, and Reform Center website. <http://cedar.education.ufl.edu/wp-content/uploads/2014/08/transition-planning.pdf>.

## Chapter Three: Capacity Building through Changes in the Use and Oversight of 14(c) Certificates

### Introduction

As detailed in the Interim Report and as reiterated in this report's introduction, an estimated 228,600 people with intellectual or developmental disabilities (I/DD) and other significant disabilities are authorized to be paid subminimum wages under Section 14(c) certificates issued by the U.S. Department of Labor (DOL) Wage and Hour Division (WHD).<sup>32,33</sup> The great majority of these individuals are working in congregate work centers, or sheltered workshops, or other congregate working situations such as work crews comprised of other individuals with disabilities. Based on April 2015 data from WHD, there are 2,820 entities in the United States which hold Section 14(c) subminimum wage certificates, almost all (89%) of whom are Community Rehabilitation Programs (CRPs) serving individuals in congregate settings.<sup>34</sup> The fact that, in 2014, 75 percent of individuals with I/DD receiving day or employment services through a state I/DD system are in a sheltered or facility-based environment<sup>35</sup> suggests a systemic belief that not much else is possible, except for a relatively small minority of persons served. At the same time, these facility-based services, which primarily offer an accompanying subminimum wage when work is available, have often led to the conclusion that this type of work and/or productivity is the most that can be expected. Thus, one by-product of subminimum wage employment is a culture with a low expectation for competitive integrated employment (CIE).

Recognizing the need to minimize this fate for students and youth with disabilities who are preparing to exit public school, Section 511 of the Rehabilitation Act, as added by the Workforce Innovation and Opportunity Act (WIOA), provides limitations on the use of Section 14(c) subminimum wage certificates for youth transitioning from secondary education and prohibitions on schools contracting with Section 14(c) certificate holders. The intent of Section 511, and WIOA more broadly, is to ensure that transition from secondary education and/or postsecondary education (PSE) to CIE is the primary goal for youth in transition, including youth with significant disabilities.

In light of the goals outlined for CIE within WIOA, the Advisory Committee Charter (2014) specifies that the Committee evaluate the use of subminimum wages under Section 14(c) of the Fair Labor Standards Act (FLSA), and advise the Secretary of Labor on policies and practices that will lead to a significant and systematic reduction in the misuse of the 14(c) certificate programs and the dependence on subminimum wages and segregated service placements. The Charter also directs the Committee to review the use of the certificate program and recommend ways to improve oversight and reduce reliance on such certificates.

To that end, each of the recommendations below is a result of the underlying need to amend Section 14(c) of the FLSA so that it reflects and aligns with modern federal disability policy and laws, which are based on the assumption that all individuals with disabilities are capable of, and have a right to, CIE.<sup>36</sup> The current widespread practice of paying workers subminimum wages, based on assumptions that individuals with disabilities cannot work in typical jobs, or on assumptions about the unavailability of alternative work opportunities, is antithetical to the intent of modern federal policy and law.

Addressing this disparity between policy intent and current practice through the amendment of Section 14(c) of FLSA will require three areas of activity and focus:

- Congress amending the FLSA to allow for a multi-year, well-planned phase-out of Section 14(c). The plan should include measures to mitigate unintended consequences for individuals currently receiving services from organizations using 14(c) certificates;
- WHD engaging in stronger oversight of 14(c) certificates and using stricter standards for issuance of new certificates and renewals of existing certificates; and
- The federal government assisting states with capacity building of service systems to provide CIE services as alternatives to those provided under programs using a 14(c) certificate.

The original nine recommendations contained in the Interim Report<sup>37</sup> are represented in these three main thematic areas. The following, along with a brief summary of applicable details and principles, are the primary recommendations from the Committee on the use and oversight of 14(c) certificates.

## **Recommendations**

1. *Congress should amend Section 14(c) of FLSA to allow for a well-designed, multi-year phase-out of the Section 14(c) Program that results in people with disabilities entering CIE.*
  - a. Oversight of the phase out should include:
    - i. Enhanced data collection and analysis of 14(c) certificate holders and individuals paid under the certificate, including earnings and hours worked
    - ii. Data collection and analysis of employment services received by individuals paid under the certificate and employment outcomes achieved
    - iii. Increased penalties for misuse of the certificate
  - b. A federal interagency panel should be appointed, by the Secretary of Labor, to develop and oversee a detailed plan for the phase out that considers:
    - i. Mandates of WIOA, including new requirements under WIOA for Section 14(c) certificate holders<sup>38,39</sup>
    - ii. Resources for technical assistance (see Recommendation Number 3)

- iii. Measures to mitigate unintended impact of service transformation on subminimum wage recipients
  - iv. Safeguards to ensure self-determination and that individuals are engaged and equipped with information and the opportunities necessary for understanding options and making informed choices
  - v. Attention to the long-term development of career pathways for individuals
2. *WHD should engage in stronger enforcement of 14(c) certificates and should use a strict standard for issuance or renewal of 14(c) certificates only when “... necessary in order to prevent the curtailment of opportunities for employment ...”<sup>40</sup>*
- a. Prior to issuing a new 14(c) certificate or renewing an existing one, DOL should require a state (through the state’s Medicaid agency, Department of Labor, or Department of Disability Services) to submit evidence that there is a current lack of employment opportunities for people with disabilities such that a time-limited 14(c) certificate is "necessary to prevent the curtailment of opportunities for employment" for people with disabilities, and to develop a plan for addressing the lack of opportunities. The submission must include, at a minimum, data on the existing rate of CIE within the state for the population proposed by the certificate applicant and articulate a plan, with specific timeframes and benchmarks, to expand access to CIE for the purpose of making the use of 14(c) certificates unnecessary in the future. To the extent necessary, DOL should take regulatory action to implement this recommendation.
  - b. Require 14(c) certificate applicants to provide information along with their application to substantiate their claim that the certificate is “necessary to prevent the curtailment of opportunities for employment" for people with disabilities, including data on the availability of integrated employment and supported employment services within the region they serve. The 14(c) applicant must also describe the steps it will take to assist individuals under 14(c) to obtain CIE, including the steps it is taking as required by Section 511 of WIOA. WHD should evaluate the progress made towards meeting the timeframes and benchmarks for expanding access to CIE in determining whether to renew a 14(c) certificate. To the extent necessary, DOL should take regulatory action to implement this recommendation.
  - c. WHD should incorporate input from federal partners into its 14(c) application and re-certification review processes, including the Centers for Medicare & Medicaid Services (CMS), the Administration on Community Living, the Rehabilitation Services Administration, and the Department of Justice in order to adequately evaluate the information about employment opportunities and the adequacy of remedial plans to support the issuance or renewal of 14(c) certificates.
3. *In addition to technical assistance activities recommended in other sections of this report, federal agencies that have responsibility either through WIOA or other federal initiatives to*

*increase CIE for people with significant disabilities – including the DOL, the U.S. Departments of Health and Human Services and Education, and the Social Security Administration -- should coordinate provision of technical assistance resources for states to encourage transforming 14(c) certificate holders to employment agencies that offer CIE.*

- a. For maximum impact, provision of technical assistance should focus on those states that are successfully transforming employment options from 14(c) to CIE either because of the work these states are doing to comply with the Home & Community Based Services (HCBS) Settings Rule, the WIOA mandate, or their *Olmstead* obligations. The results should be shared with all states.
- b. The technical assistance resources should include, at a minimum:
  - i. Redesigning the business plans of non-profit employers with 14(c) certificates, typically defined as CRPs, to develop strategies that lead to and support individuals with disabilities to pursue and sustain CIE
  - ii. Methods of re-deploying staff and restructuring staff roles
  - iii. Staff training on CIE strategies
  - iv. Service delivery by CRPs that ensure self-determination and informed choice, and career pathways that advance economic self-sufficiency
  - v. Data collection and management of CIE services
  - vi. Repurposing of facilities/spaces
- c. CMS should enforce guidance regarding the time-limited nature of pre-vocational services for the purpose of individuals moving into CIE, as opposed to moving to other non-vocational segregated services.

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<sup>32</sup> U.S. Department of Labor Wage and Hour Division Presentation to the Committee. January 22, 2015. The total number of individuals working on Section 14(c) is not specifically tracked. The number provided is an estimate based on the number of workers with disabilities who were paid subminimum wages by the certificate holder during their most recently completed fiscal year, as reported during the certificate application process.

<sup>33</sup> Employers, who have been issued a special certificate under Section 14(c) of the Fair Labor Standards Act, are authorized to pay a subminimum wage to individuals whose earnings or productive capacity is impaired by a disability.

<sup>34</sup> Verified by U.S. Department of Labor Wage and Hour Division. *See* [www.dol.gov/whd/workerswithdisabilities/employers.htm](http://www.dol.gov/whd/workerswithdisabilities/employers.htm) for most current information.

<sup>35</sup> Butterworth, J., Smith, F. A., Hall, A. C., Migliore, A., Winsor, J., & Domin, D. (2014). *StateData: The National Report on Employment Services and Outcomes*. Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

<sup>36</sup> The Ticket to Work and Work Incentives Improvement Act of 1999, The Individuals with Disabilities Education Improvement Act of 2004, and the Workforce Innovation and Opportunity Act (signed into law on July 22, 2014) are each predicated on the expectation that services delivered through their respective mandates are available to and will benefit all individuals with disabilities to whom the services apply. The Americans with Disabilities Act provides people with disabilities a civil right to live, work, and receive services in the most integrated setting in the community.

<sup>37</sup> Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, Chapter Six: Section 14(c) Program, September 2015.

<sup>38</sup> Any individual with disabilities, 24 years of age or younger (youth) who is hired after July 22, 2016, must complete specific services designed to improve their access to competitive integrated employment before they can be paid a subminimum wage. Certificate-holders are required to maintain copies of records verifying that a youth has completed the required services prior to being paid a subminimum wage.

<sup>39</sup> Effective July 22, 2016, all workers with disabilities, regardless of age, who are paid a subminimum wage, must be regularly provided with career counseling and information about specific training opportunities. No employee can continue to be paid a subminimum wage unless he or she is provided with these services every six months for the first year of employment and annually thereafter.

<sup>40</sup> As quoted from 29 C.F.R. § 525.9.

## Chapter Four: Capacity Building in the Marketplace

### Introduction

There are many contributors to the low employment participation of people with disabilities in general, and to the low participation of people with intellectual or developmental disabilities (I/DD) and other significant disabilities in particular. Employer engagement is an often overlooked explanation, which results in major barriers to employment opportunities. However, there are organizations such as the U.S. Business Leadership Network<sup>®</sup> (USBLN), that helps businesses drive performance by leveraging disability inclusion in the workplace, supply chain, and marketplace. USBLN serves as the collective voice of nearly 50 Business Leadership Network affiliates across the United States, representing over 5,000 businesses that are raising awareness and opening doors to the employment of people with disabilities ([www.usbln.org](http://www.usbln.org)). In addition, the National Organization on Disability's (NOD), Bridges to Business program also works with employers to increase the employment of people with disabilities ([www.nod.org](http://www.nod.org)). Still, the high demand for work by people with disabilities is not as yet being met by businesses. Employers that do have diversity and inclusion initiatives recognize that hiring persons with disabilities is a cost-effective way to build an inclusive workforce that is representative of the business's customer base, and that individuals with significant disabilities must be perceived and portrayed as an asset to the company – not a risk.

The predominant business narrative for hiring individuals with disabilities in America in the recent past has been that it is “the right thing to do,” thus appearing to have been a patriarchal appeal, rather than an identification of the opportunities and benefits associated with developing an inclusive workforce and ways to accordingly improve the bottom line. Further, this pervasive message has perpetuated inaccurate and negative perceptions, but also fails to provide meaningful guidance on effectively building a more diverse and productive workforce that includes employees with I/DD and other significant disabilities.

Although presumptive employability is regarded as a desirable philosophical underpinning to disability employment policy, the concept does not necessarily correspond to employer perspectives nor is it expressed in employer-centric terms. Employers' hiring activity is mostly related to operational or revenue objectives. However, appeals to employers have historically been cast in disability-centric terminology, such as “Hire the Handicapped” campaigns in the past, as opposed to the current appeals for employers to hire people with disabilities as an untapped resource of talent.<sup>41,42</sup> It is not surprising, then, that there has been a longstanding struggle with crafting the right message to employers about hiring people with disabilities. Contemporary messaging would be stronger if it showcased specific outreach and recruitment strategies used by such companies that have worked to change corporate policies directed to the

employment of people with disabilities such as AMC Theaters’ “Focus Program,” PepsiCo’s “Pepsi ACT Program,” and Walgreens’s Distribution Center and its retail store “REDI Program” where all three corporations have been successful in expanding disability hiring.<sup>43</sup>

In addition to better messaging and outreach, and as detailed in the Committee’s Interim Report,<sup>44</sup> businesses also need support from competent and well-educated employment services personnel directed to both the outside to independent service provider organizations that provide employment services and a “pipeline” of candidates to businesses but also to personnel that work within the public workforce system. Employment services personnel must not only be educated to understand how businesses work but also to identify and address employment needs. Personnel also must be educated on how to appropriately assess the job seeker’s career interests, skill sets, and abilities that result in appropriate job matches. Employers who actively seek to affirmatively hire individuals with disabilities report that finding qualified job candidates as a major barrier.<sup>45</sup> Thus, there is a need to establish partnerships with business in order to ensure that disability employment organizations and employment service personnel, including those in the public workforce system that includes the American Job Centers (AJCs), receive preparation and training on how to effectively engage businesses by using better messaging, and translating effective methodology such as supported and customized employment into benefits for prospective employers of individuals with significant disabilities.

In addition, individuals with I/DD and significant disabilities need education on how employment may impact their Social Security or other benefits so that they may make informed choices about returning to or seeking employment while also learning more about what other resources may be available. Benefits counseling is an asset to employers in recruiting talent when individuals with disabilities have received this counseling and have decided that they are ready to enter the workforce.

Individuals with I/DD and significant disabilities also need more opportunities to enter training programs so that they may be better qualified to meet the needs of businesses. Another factor in employer engagement is the lack of access across the U.S. to public and para-transit system transportation by individuals with significant disabilities, and in particular in rural America.<sup>46</sup> This impacts businesses in their ability to recruit talent and access to competitive integrated employment (CIE) by individuals with disabilities.

Regardless of these barriers, opportunities exist to take advantage of employment prospects in high-growth industries, notably in healthcare, although none of these industries, including healthcare, have completely opened their doors to people with I/DD or significant disabilities other than for lower-skilled entry-level jobs. Employment in healthcare occupations is expected to add up to 2.3 million new jobs by 2024.<sup>47</sup> To attract new employees and build a more stable workforce, health care employers are focused on recruiting from non-traditional labor pools,



increasing the diversity of workers, and reducing turnover rates. However, to take advantage of this opportunity, specific attention and initiatives, similar to those underway at healthcare institutions such as Rush University Medical Center in Chicago and Spaulding Rehabilitation Network in Boston,<sup>48,49</sup> will be necessary to elevate expectations that individuals with I/DD and other significant disabilities can fill this need and develop a track record of success. Other examples of initiatives to foster careers in the healthcare industry include institutions of higher education such as Onodaga Community College in New York, which offers a transition program for youth with I/DD and other significant disabilities in healthcare information technology. As well, Metro North Employment, Inc. and two affiliate AJCs located near Boston, offer training in healthcare careers that are open to qualified people with disabilities, which can result in licenses or certification.<sup>50</sup> In addition, the National Organization of Nurses with Disabilities reports that there are individuals with disabilities that have graduated from nursing programs and are employed in the workforce or, are currently enrolled in nursing-schools across the U.S.<sup>51</sup>

Two other areas related to employer and business engagement are important to highlight. First, in the fall of 2013, the U.S. Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP) finalized regulations implementing section 503 of the Rehabilitation Act with an effective date of March 24, 2014.<sup>52</sup> Since the spring of 2014, federal contractors have been working to meet the seven percent goal of including people with disabilities into their workforce by developing and submitting their outreach and recruitment plans to OFCCP and encouraging current and newly-hired employees with disabilities to self-disclose. In spite of efforts to reassure employees that there is no threat of negative consequences, businesses seeking to meet the seven percent goal report that people with disabilities are hesitant to self-disclose.<sup>53</sup> Although the benefits of disclosure are clear on the employer side of the equation, the benefits of self-disclosure for employees with disabilities still have not yet been effectively articulated. The Section 503 rules task OFCCP to work closely with Federal contractors as they work towards compliance and as this initiative potentially opens wider employment opportunities for individuals with I/DD and other significant disabilities.

Finally, federal tax policies provide incentives to employers that hire people with disabilities and encourage businesses to make worksites more accessible for both employees and customers. The current tax incentives, including the Work Opportunity Tax Credit, the Disabled Access Credit, and the Architectural and Transportation Barrier Removal Deduction, which are directed to people with disabilities, have been reported as underutilized.<sup>54</sup> Reasons for this include a general lack of awareness by businesses that the incentives exist and that the financial incentives are not sufficiently motivating for employers to participate. Thus, there is a need to update the associated legislation.

Given these realities, the Committee has identified eight key areas for organizing its recommendations for building capacity in the marketplace: Communication and outreach to

businesses, public workforce employment services personnel education, the public workforce system's approach to increasing training opportunities for individuals with I/DD or significant disabilities, the expansion of the Benefits Counselor certification through the Work Incentives Planning and Assistance Project (WIPA) grant program, transportation, high-growth industries with a focus on healthcare, the OFCCP Section 503 regulations, and tax incentives.

Recommendations in each of these areas are presented below with accompanying additional detail.

## **Recommendations**

1. *Congress should provide funding to DOL to develop and disseminate public service announcements and other media resources in order to conduct a dynamic and impactful national marketing campaign directed to businesses. The campaign must target employers of all sizes that promote business-to-business communication, highlight the impact and benefits to business, and highlight the accomplishments of people with I/DD and significant disabilities working in CIE.*
  - a. This marketing campaign should be developed in collaboration with business representatives that have successful disability inclusion initiatives and with business leadership organizations, such as, but not limited to USBLN, NOD, and the Society for Human Resource Management (SHRM) as appropriate. The campaign should spotlight model businesses that have effectively built a more inclusive workforce through the development of outreach and recruitment strategies resulting in policies and practices specifically aimed at recruiting, hiring, and retaining employees with I/DD and other significant disabilities such as those mentioned in the introduction.
  - b. The marketing campaign public service announcements (PSA) and other media resources should be directly disseminated nationwide to organizations, including, but not limited to: chambers of commerce at the state and local level, business councils, trade associations, Small Business Administration offices, and other entities. DOL should authorize and encourage these business-directed organizations to link the PSA and/or other media resources on their websites in order to educate their members about hiring people with I/DD and significant disabilities and how to connect with businesses that have successful diversity initiatives.
2. *Congress should provide funding and mandates to the U.S. Department of Education (ED) and DOL to develop training that includes certification requirements that will be presented in a web-based centralized format for all employment services personnel who work within the public workforce system with businesses and individuals with I/DD and other significant disabilities.*

- a. Nationwide web-based, centralized instruction must be developed and implemented in order to mandate that all public workforce system employment services personnel become certified to ensure the continuity of the provision of quality services to businesses and people with disabilities, in particular to people with I/DD and significant disabilities.
- b. Educational online initiatives should include, but not be limited to: all employment services personnel within the public workforce system and directed to AJC management and staff, business service representatives, Workforce Development Board members and staff, state workforce executives, and vocational rehabilitation staff.
- c. Leads to a certification credential for both current and new employment services personnel working within the public workforce system
- d. Certification requirements should build on existing standards, such as those established by the Association for Persons Supporting Employment First (APSE) Certified Employment Support Professional (CESP) exam, and augment any other existing professional standard requirements, e.g., Certified Rehabilitation Counselor
- e. Designed to provide education through individual online modules that include, but are not limited, the following:
  - i. Disability Awareness Module that includes how to communicate and work with individuals with disabilities, with a focus directed to people with I/DD and other significant disabilities
  - ii. Detailed strategies for assisting AJC customers with significant disabilities to pursue and achieve CIE
  - iii. Specific business-related content, including general market and industry information and specific recommendations and guidance from businesses that have successfully included individuals with significant disabilities in their workforce
  - iv. Funding including the blending and braiding of funds and their utilization
  - v. Ways to address physical, communication, and programmatic barriers to employment that may exist in AJCs
  - vi. Universal access
  - vii. Assistive technology
  - viii. The Social Security Administration's (SSA) Ticket to Work Program
  - ix. Work incentives and benefits counseling

- x. Financial education and counseling
  - xi. Guidance on making referrals to outside agencies in order to reduce duplication
  - xii. ADA education on the “Provision of Employment Services,” ADA standards that address those relating to both provision of services (e.g., ADA Title II, Section 504) and employment (e.g., ADA Title I, and specific parts of Section 504 regulations (29 CFR part 32 subparts B and C), and on
  - xiii. WIOA Section 188
- f. Once the online education and certification requirements are developed, the online modules should be designed so that employment services personnel may re-enter the modules so that they may access information at-will to immediately find resource information included in any module. This will ensure that personnel will be better prepared on how to communicate with businesses and to guide them through a customized approach to recruiting, hiring, retaining, advancing, and supporting employees with I/DD and significant disabilities into CIE
  - g. Funding for the online education initiative should include a budget for ongoing updates to keep the education on target with changing federal policies and any additional information
3. *Congress should mandate that within the public workforce system a percentage of local Adult and Dislocated Worker and Vocational Rehabilitation (VR) formula funds be set-aside to support work experiences, including internships, apprenticeships, on-the-job training, and paid work experiences for individuals with I/DD or other significant disabilities.*
- a. AJCs and state VR agencies must further divide the mandated percentage of work-based learning funding across the customer groups of individuals with I/DD and other significant disabilities they serve. AJCs, for example, should ensure funding is divided between adults, dislocated workers, and youth with I/DD and other significant disabilities. State VR agencies must ensure funds are allocated for both adult and youth populations that have I/DD or other significant disabilities.
  - b. WIOA emphasizes engaging employers across the workforce system to align training with needed skills and match employers with qualified workers. The law also emphasizes training that leads to industry-recognized postsecondary credentials. To further support WIOA’s focus on CIE as the priority outcome, a percentage of all work-based learning funding must be specifically set aside and earmarked exclusively for use with youth and adults with I/DD and other significant disabilities. The amount of set-aside funding should be individually determined but mandated so that local

Workforce Boards will set-aside funds for each local workforce area contingent on the local workforce needs.

4. *In order to insure that businesses have qualified workers that are educated on the impact that employment may have on their state or federal benefits, Congress should increase funding of the Social Security WIPA grant program to expand and provide opportunities for more benefit counselors to be certified, and fund the U.S. Department of Labor and Social Security Administration collaboration to promote and encourage the onboarding of Social Security Administration Ticket to Work Employment Networks (ENs) into AJC sites. WIPA grant programs should also provide information on Achieving a Better Life Experience (ABLE) accounts to advance CIE and economic self-sufficiency objectives.*

#### Rationale/Details

WIPA provides work incentive planning and assistance, benefits counseling, and guidance for planning for a more economically self-sufficient future. WIPA certified benefits counselors offer advice and guidance to SSDI and SSI beneficiaries about obtaining and maintaining employment and building more independent and productive lives while also providing information on obtaining vocational rehabilitation and employment related services including referrals to Employment Networks. The WIPA Program is an integral part to educating individuals with disabilities on the use of Social Security work incentives and the benefits of employment.

Funding for the WIPA program is based on a formula with a maximum cap established in the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) and has remained at this level since 2001. As a result, and in spite of increased demand for services, the number of WIPA projects has decreased from 107 in 2006 to 83 currently nationwide.

SSA currently allows community service providers to receive this training for free as part of the training and technical assistance contract to train Community Work Incentive Coordinators (CWICS) to become benefits counselors as part of the WIPA grant. However demand for this training is very high and the capacity to meet the demand for certification classes is very limited.

There are approximately 2,500 AJCs nationwide providing assistance with career counseling, job training, job placement, and other services. In many instances, these AJCs provide employment support services to SSA disabled beneficiaries seeking employment. Currently, approximately 120 of these AJCs serve as SSA ENs. By becoming an EN, the AJCs can receive payment from SSA by placing beneficiaries into jobs. Part of these funds can be used by the AJC to establish or facilitate participation in an administrative structure needed to manage the administrative and other logistical aspects surrounding this effort.

Given these circumstances:

- a. Congress should increase funding of WIPA grant program to support the expanding population of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability beneficiaries seeking to enter the workforce and help inform them about ABLE accounts to meet goals of CIE and advancing economic self-sufficiency.
  - b. In order to improve employment outcomes for individuals with disabilities, Congress should provide expanded funding for SSA benefits counseling training to service providers working directly with individuals with disabilities and receiving SSI and/or SSDI benefits. This funding would be utilized to expand the number of classes to better meet the need. Eligible service providers who would receive this training include VR, ENs, appropriate job support staff from employers of SSA beneficiaries, and other entities engaged in employment support services for this population.
    - i. Employer personnel may receive this training as they are engaged in job coaching or other roles designed to support people with disabilities. Expanded training should be facilitated through existing, accredited programs and should result in the certification of the trainee as a benefits counselor. This will improve employment outcomes for individuals with disabilities as they will understand about how working will allow them to make informed decisions about employment, earnings and investment.
  - c. In order to increase CIE for individuals with disabilities, Congress should fund the DOL and SSA to collaborate to promote and encourage the onboarding of AJC sites as SSA Ticket to Work ENs.
5. *Congress should direct the Secretary of the U.S. Department of Transportation (DOT) to ensure that safe, seamless, cross-jurisdictional, accessible transportation is available for people with disabilities, including but not limited to establishing Para-transit Systems in urban and rural areas across the United States, and utilizing the latest technological and digital strategies to address the most glaring deficits, especially in rural areas.*
- a. DOT should build on existing new technological and digital strategies to better address transportation issues for people with disabilities. For example, the National Center for Transit Research (NTR) provided funding to researchers at the University of Illinois (Chicago) Urban Transportation Center to develop an online tool that permits experts to evaluate accessibility by different transportation modes and use that information to improve livability.<sup>55</sup> DOT should consider a grant program to fund this effort on a national scale.
  - b. DOT should develop additional grant opportunities aimed at providing additional funding for travel training, updating safety mandate requirements, and training for

transportation vendors on appropriate and respectful communication with and treatment of people with I/DD and significant disabilities. DOT should identify strategies for broad nationwide dissemination of all grant opportunities.

- c. DOT should create incentives, including priority status on grant applications, for employers who demonstrate commitment to hiring and sustaining CIE of individuals with disabilities by incorporating transportation solutions and supports into their business practices.
  - d. DOT must ensure that businesses providing their own transportation services for customers and/or employees with their own transportation vendors be included in all training and educational opportunities.
6. *Recognizing that healthcare is the fastest growing sector in the American economy, Congress should fund ED and DOL to develop initiatives that will educate employers within healthcare industries about the abilities of people with I/DD and significant disabilities and to create opportunities for people with I/DD and significant disabilities to participate in educational training, apprenticeships, and certification programs in healthcare and other high-growth fields.*
- a. These initiatives should highlight success stories, including those from healthcare companies and institutions of higher of education, as well as showcase examples of effective partnerships between healthcare businesses and the public workforce system such as those listed in the introduction to this chapter.
  - b. Because the perception may be that people with I/DD or those that have significant disabilities cannot work in healthcare careers and because some people with disabilities have been told they cannot pursue those careers, DOL and ED should provide outreach and education to individuals with significant disabilities to promote the idea that healthcare careers are an option.
7. *Congress should direct DOL to develop and implement strategies to provide additional outreach and guidance to Federal contractors working to comply with OFCCP Section 503 Rules during the ongoing “rollout” period and should fund the U.S. Department of Labor to develop and implement projects that-*
- a. Provide training on the 503 Rules to VR and AJC staff and direct the Employment and Training Administration (ETA) to disseminate guidance to regional and local workforce development boards and directors that emphasize the importance of the training and promote the participation of AJC and VR staff.
  - b. Direct federal contractors to identify themselves on the state job database systems. Identifying as a contractor allows job seekers, AJC and VR staff to see the status of

Federal contractor job opportunities and ultimately enhances efforts to recruit job seekers with disabilities.

- c. Create pilot programs to research and identify effective strategies for federal contractors to use in outreach, recruitment, and hiring of people with disabilities since hundreds of federal contractors and subcontractors have never before included people with disabilities in their workforce. Once the studies are completed, DOL should disseminate best practices to other federal contractors to assist their development of outreach and recruitment plans directed at job seekers with disabilities. This guidance also must create employer awareness of the real fears individuals may have about disclosure and provide strategies businesses can use to proactively alleviate these fears.
- d. DOL should monitor federal contractors to ensure that they provide information about the Invitation to Self-Identify which is included in the new 503 regulations in order to invite applicants to self-identify as individuals with disabilities at both the pre-offer and post-offer phases of the application process, using language prescribed by the OFCCP. The new regulations also require that contractors invite their employees to self-identify as people with disabilities every five years, using the prescribed language. In addition, incorporation of the EO Clause language is to be used when incorporating the equal opportunity clause into a subcontract by reference. The mandated language, though brief, will alert subcontractors to their responsibilities as Federal contractors.
- e. Ensure that all electronic job applications provided by federal contractors include a statement directed to self-disclosure as in OFCCP form CC-335, Office of Management and Budget (OMB) Control Number 1250-0005, Voluntary Self-Identification of Disability. As directed to candidates applying for a job, the form states,  
“Because we do business with the government, we must reach out to hire and provide equal opportunity to qualified people with disabilities. To help us measure how well we are doing, we are asking you to tell us if you have a disability or if you ever had a disability. Completing this form is voluntary, ...Any answer you give us will be kept private and will not be used against you in any way.”
- f. Develop outreach materials that provide compelling reasons for individuals to disclose their disabilities to potential employers and raise employer awareness of potential self-disclosure concerns. Materials must highlight the specific benefits of disclosure as well as address the most commonly identified fears: confidentiality, possible “labeling,” and negative impact on career growth. Dissemination efforts must target individuals with disabilities as well as business organizations



- g. Implement regional federal contractor roundtable discussions to establish better relationships between DOL and federal contractors. Also, SSA and/or local Ticket to Work Program Employment Network representatives and VR business services staff can act as resources to businesses during the discussions. Goals for the roundtables must include: fostering open communication, enhancing trust and collaboration, improving understanding of different perspectives, and increasing support for the mutual goals of increasing integrated competitive employment for people with disabilities.
8. *Congress should update and amend the Work Opportunity Tax Credit (WOTC), the Disabled Access Credit (DAC) and the Architectural and Transportation Barrier Removal deduction to expand eligibility criteria, increase financial benefits to eligible employers, and heighten programmatic oversight.*
- a. Efforts to increase WOTC utilization and to evaluate its effectiveness should include the following:
    - i. Expand WOTC to include recipients SSDI benefits under Title II of the Social Security Act as a new target group.
    - ii. Monitor the new online WOTC application process to ensure that employer applications are processed in a timely fashion.
    - iii. Simplify the WOTC application process.
    - iv. Both at the federal and state level, WOTC websites should provide business-friendly information on WOTC, using language that is consistent with the federal WOTC site. The websites should include an ongoing feedback loop with employers to gather data on the efficacy of the application process, including ease of use, overall satisfaction, and suggested site improvements. The outcome of employer feedback/surveys should result in WOTC federal and state website changes based on employer suggestions that improve their access and address employer need for additional information.
    - v. Fund DOL to conduct an empirical longitudinal study examining the impact and effectiveness of the WOTC tax credit. In particular, the study should explore retention rates, opportunities for advancement, and the role of the WOTC in the decision to hire employees with disabilities. If possible, the study also should collect data on how many people with I/DD or other significant disabilities are hired under WOTC.
  - b. Considering the number of small businesses that are present in the American economy, Congress should revise the standards for DAC to:

- i. Expand eligibility criteria beyond the current limits of businesses with \$1 million or less in gross receipts or with 30 or fewer full time employees for the previous year, and
  - ii. Include annual indexation for inflation.
  - iii. Additionally, Congress should require the Internal Revenue Service (IRS) to develop and disseminate materials providing regulatory guidance on DAC eligibility and applicability. Materials should target employers, accountants or tax preparation professionals and should clarify what expenses the law is intended to cover, in order to reduce the confusion small business employers have about the Disabled Access Credit.
- c. Amend the Architectural and Transportation Barrier Removal Deduction to the Architectural, Transportation, Communication and Technology Barrier Removal:
  - i. Make it a tax credit instead of a tax deduction.
  - ii. Increase the allowable amount for any size business beyond the current \$15,000 limit per year to \$35,000 a year, while taking into account inflation and the increased cost of products, construction and services;
  - iii. Expand “barrier” categories to better reflect those of the modern workplace and to explicitly include both “communications” and “technology” barriers. For example, the applicability of the current deduction should be expanded to cover technological-based expenses such as software, assistive technology, and Section 508 website compliance. This will better address accessibility barriers experienced by today’s employees, potential employees, and customers. Accessible websites will improve the ability of job seekers with I/DD and significant disabilities to access online job opportunities by improving visibility, navigation, and downloading of job applications. Businesses using this tax (credit) to improve communications or technology might include retailers that provide monitors for customers to access catalogue items, product information, prices and more. A tax (credit) could be used to offset the expenses associated with equipping these computer-monitors with assistive technology that would allow customers with vision loss to access the information as well.
  - iv. Clarify the law to ensure that accessible transportation is included in any business subsidized employee or customer transportation so that the transportation barrier removal deduction (credit) extends not merely to the physical accessibility of vehicles but to their use on behalf of people with disabilities.

- d. Considering the underutilization of tax incentives by businesses, provide funding to the IRS and DOL to develop a public campaign publicizing and explaining the tax incentives available to businesses to support the hiring and retention of employees with disabilities and/or to provide better access for employees and customers with disabilities.

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<sup>52</sup> U.S. Department of Labor, OFCCP (2014) New regulations: Section 503 of the Rehabilitation Act. Retrieved on May 28, 2016 from <https://www.dol.gov/ofccp/regs/compliance/section503.htm>

<sup>53</sup> The United States Business Leadership Network, [www.usbln.org](http://www.usbln.org)

<sup>54</sup> U.S. General Accounting Office (2002). Business tax incentives: Incentive to employ workers with disabilities receive limited use and have uncertain impact. GAO 03-39, Washington, DC.

<sup>55</sup> Urban Transportation Center at UIC (2015). Online Tool Provides Chicago Planners Way to Measure Accessibility to Jobs, Parks, Schools & Other Destinations. Retrieved on September 7, 2016 from <https://utc.uic.edu/online-tool-provides-chicago-planners-way-to-measure-accessibility-to-jobs-parks-schools-other-destinations-news-story/>

# Chapter Five: Capacity Building in Specific Federal Agencies

## Introduction

Current federal policies reflect years of attempts to find the best ways for supporting people with disabilities yet are often contradictory and confusing. Each agency has approached this task with a different understanding of the needs and as a consequence policies are sometimes in conflict and become barriers to a goal of increasing competitive integrated employment (CIE) and advancing economic self-sufficiency. Societal views have evolved from seeing people with disabilities as unable to work to recognizing they bring competency and contribution to the workforce. To fully capitalize on this vital segment of the workforce, however, policies must be aligned to support and achieve CIE. In order to ensure that people with disabilities have access to CIE, federal agencies must work together to support that option for everyone and to eliminate or work around conflicting purposes and mandates.

Notably, the Social Security Administration (SSA) should emphasize employment as a goal for working age Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) beneficiaries and help dispel the fears of losing cash, health benefits, financial stability and personal security. Likewise, the Centers for Medicare & Medicaid Services (CMS), which has provided detailed guidance to states on how to promote CIE under 1915(c) Waivers that cover people with I/DD, must provide similar detailed advice on how to use other Medicaid authorities to promote CIE for working age people who use mental health and physical disabilities supports.

Thus, in the context of expanding CIE for working age individuals with disabilities federal agencies must determine how to ensure that non-work programs and services complement working age people's work lives and do not substitute for or replace work's central role. These services may include integrated day services and non-residential Long Term Supports and Services (LTSS), that is, supports and activities that enable individuals receiving HCBS to receive services in a variety of community-based settings to learn activities of daily living and participate in community recreation opportunities. In the context of CIE, integrated day services should consist of community-based pursuits determined by individual choice that complement and help maximize CIE and that provide a meaningful set of activities outside of scheduled work hours. Additionally, in order to fully access and succeed in CIE individuals will require "wraparound supports," that is, complementary services that enable individuals to find and sustain employment such as affordable housing, transportation, and other supports needed for facilitating individual availability to pursue CIE. The lack of complementary integrated day services and wraparound supports often constitute major barriers to CIE.<sup>56</sup>

Significant obstacles to CIE also include the rules, processes, and perceptions associated with SSA programs including SSI and SSDI. These obstacles and their impact have been well documented.<sup>57,58</sup> Recent initiatives by SSA, including the Ticket to Work program and major research initiatives such as the National Youth Transition Demonstration,<sup>59</sup> represent a recognition that changes need to be made to these programs in order for recipients to achieve employment - while still maintaining eligibility for income maintenance and essential health benefits so as to have stability in their lives as they pursue CIE. In order to promote CIE for SSI and SSDI beneficiaries, changes to program rules need to be made so that people may maintain access to income maintenance and health benefits as they seek CIE.

This chapter provides three specific recommendations to address these issues. Each recommendation is accompanied by additional rationale and detail to further illustrate the recommendation's focus and intended impact.

### **Recommendation: Cross-Agency Working Group Regarding Integrated Day Services and Wrap-around Supports**

1. *The U.S. Department of Health and Human Services (HHS), in collaboration with the U.S. Departments of Labor (DOL), Education (ED), Transportation (DOT), and Housing and Urban Development (HUD), and Justice (DOJ), and the Social Security Administration (SSA), should convene a cross-agency working group to provide policy guidance and technical assistance on integrated day services and other wraparound supports<sup>60</sup> that can help people with significant disabilities access CIE. At a minimum, the policy guidance should:*
  - a. Clarify that the purpose of integrated day and wraparound supports is to maximize (as opposed to displace or limit) CIE, improve socioeconomic status, and facilitate authentic community involvement for people with significant disabilities,
  - b. Identify the key components, and examples, of effective practices in integrated day services; describe funding strategies available to expand integrated day services (including opportunities for using self-directed services); and suggest methods and metrics for collecting and using data on integrated day services to improve accountability and outcomes over time,
  - c. Clarify that integrated day options include, but are not limited to opportunities for mainstream, community-based recreational, social, educational, cultural, and athletic activities, including community volunteer activities and training activities, as well as other regularly occurring non-facility based activities of a person's choosing that are provided in settings which allow individuals with disabilities to interact with individuals without disabilities in a community setting to the fullest extent possible

- for the individual, and that such services should not include an overall facility or program schedule for the individuals receiving such services,
- d. Clarify allowable uses of federal funds for promoting natural (i.e., non-professional), supports that help achieve the desired outcomes of CIE and socioeconomic advancement, and
  - e. Describe how funding sources and service mandates can be coalesced across systems to ensure continuity in providing the seamless wrap-around supports needed to maximize the employment and earning potential of individuals with significant disabilities.

### Rationale/Detail

Assisting people with significant disabilities to obtain CIE and improve their socioeconomic status requires that public funding for integrated day services (also called non-residential LTSS) and wraparound supports be used to augment the person's experience while not replacing employment as the desired outcome.

For individuals with significant disabilities who have not yet obtained CIE, non-residential LTSS should focus on activities aimed at increasing the person's chances of achieving CIE (including integrated work-based learning experiences, networking to develop contacts for career advancement, career planning, and job development).

For individuals with significant disabilities who have achieved CIE, non-residential LTSS should continue to focus on activities aimed at expanding and sustaining CIE outcomes and at socioeconomic advancement, including but not limited to increased hours, wages, and benefits, opportunities for career advancement, expanded financial capability, and maximum community integration. Examples of priority service areas that could be linked to furthering the desired outcomes of CIE and socioeconomic advancement may include career planning/exploration, transportation, financial literacy training, benefits planning, and community-based recreation or skills-building activities.

Targeting funding across systems at these desired outcomes requires leveraging resources, coordinating services, and aligning the various processes across systems that help determine an individual's eligibility for receiving supports. Such a vision is predicated on the creation of a holistic, comprehensive, and unified person-centered planning process that transcends systems for providing LTSS to individuals with significant disabilities, with a priority focus on CIE and optimal socioeconomic advancement.

Performance measurement and cross-system accountability protocols must be established to assure that data on supports being provided to supplement and advance CIE outcomes is being

collected. Such data should include metrics aimed at measuring the impact of various non-residential LTSS services, wrap-around services, and natural supports in yielding optimal integration, the number of work hours desired, the highest earning potential, and long-term socioeconomic security.

### **Recommendation: Ticket to Work Model for Transition-age Youth**

- 2. Congress should authorize the creation of a Ticket to Work demonstration focused on youth with disabilities in transition, to be co-managed by the Administration on Community Living and the Social Security Administration, in partnership with DOL, HHS, and ED. With Congressional approval, the Office of Management and Budget should provide authority for SSA and the other federal partners engaged to waive certain eligibility requirements for participants in the Ticket to Work youth demonstration so they can access services across systems with the goal of maximizing the potential of these transition-age youth with disabilities to achieve CIE and financial independence.*

#### Rationale/Detail

Transition is the period of time when adolescents (irrespective of disability) need focused support to plan for postsecondary education, careers, health care, financial benefits, housing and movement to adulthood.

Based on lessons learned from SSA's Youth Transitions Demonstration, as well as results from other youth-focused employment systems-change initiatives led by other federal agencies, research shows that there is a need to provide continuity of support for youth as they transition from youth-specific systems to adult service delivery systems.<sup>61</sup>

Expanding the Ticket to Work model to include and support transition-age youth and younger adults could substantially improve employment outcomes for young people with the most significant disabilities.

Access to supports that advance CIE outcomes (including but not limited to pre-employment transition services, integrated work-based learning experiences, career planning and job placement services, benefits counseling, and financial capability) for youth with disabilities in transition could increase the probability that youth receiving SSI benefits will eventually transition out of SSI as opposed to remaining enrolled for a lifetime.

The pilot should permit youth ages 14 to 16 to participate and allow continued participation in the demonstration for the duration of the pilots or up to age 30. The demonstration should also evaluate the age range of youth to be included in the expanded Ticket to Work program based on lessons learned from the pilots regarding what works best for youth when starting to work and what supports are needed after transition.<sup>62</sup>

Participating Employment Networks (EN) serving youth in the children's SSI program will have the opportunity to receive bonus payments based on their success in working collaboratively with schools to place students in part-time and/or summer jobs prior to leaving school and in successful transitioning to CIE after leaving school. Payments should be calculated based on the achievement of milestones calculated by SSA specifically for transitioning youth. Schools will be allowed to participate as ENs under the proposed program.

Youth who are eligible only for the children's SSI program and will never enter the adult SSI program will be eligible for this youth-focused Ticket to Work.

In addition to the requirements already set forth for all Ticket to Work ENs, entities wishing to participate as a transition EN under the pilot must demonstrate both expertise in providing integrated work-based learning experiences and pre-employment transition services as defined under WIOA for youth with the most significant disabilities. They should be youth-based organizations or entities that possess established relationships and cooperative agreements with youth-based organizations, local school districts and/or institutions of higher education. As Vocational Rehabilitation (VR) agencies possess an existing statutory obligation under WIOA to serve transitioning youth, an emphasis will be placed on establishing additional entities beyond the VR system as transition ENs to help expand capacity beyond VR to serve youth with the most significant disabilities within the children's SSI program who are participating in the youth-focused Ticket to Work program.

Allowing youth-serving organizations with adequate employment support experience to become employment networks may help reach a new and critical youth population.

The expanded Ticket to Work demonstration for youth should, at a minimum, include:

- a. Assistance with developing an Individualized Career Plan that focuses on CIE and long-term objectives to advance economic self-sufficiency,
- b. Career coaching to assist in exploring career options and making good decisions about the best career plan for each individual,
- c. Counseling and guidance on navigating adult systems such as employment supports and healthcare,
- d. Successful career planning to include education on work incentives and financial capability strategies to help youth learn about financial independence and workforce participation,
- e. Waivers of certain federal program requirements as necessary (such as the provision of stipends to offset SSI benefit changes during pilot participation),



- f. Use of “pay-for-success” payments or other financial incentive models if the right conditions exist, and
- g. Consider a “race to the top” approach for states with graduated payments for high performing sites.

### **Recommendation: Going the Distance from Fear to the Freedom to Succeed**

3. *Informed by the findings of previous SSA demonstration projects pertaining to employment and loss of benefits and using the ACCESS (Autonomy, Confidence, Connection, Equality, Status/Skilled, and Safety) framework, SSA should collaborate with federal partners, state governments, and other key stakeholders (advocates, researchers, disability service providers, employment networks, and foundations) to develop and coordinate the implementation of a comprehensive, longitudinal research, systems-change, and policy reform initiative designed to increase the number of SSI/SSDI beneficiaries that become optimally employed<sup>63</sup> in CIE while simultaneously maintaining eligibility for income maintenance and essential health benefits as well as preserving access to LTSS necessary for self-sufficiency, and maximum socioeconomic advancement. The initiative would include the following components:*

- a. A review of the definition of disability as it affects services across agencies.
- b. SSA and its federal partners should develop and institute policy reforms to better clarify, strengthen, and expand work incentives so that SSI/SSDI recipients and other stakeholders can more readily utilize them to promote and support CIE goals. This expansion should also be accompanied by funding to increase the number of benefits counselors and service providers who have benefits counseling certification.
- c. With oversight from persons with disabilities and their families to ensure user-friendly language and materials, SSA, in partnership with ED, HHS, and DOL should launch a national education campaign that focuses on distributing informational resources/activities and specific examples of how SSI/SSDI recipients can work and still maintain eligibility for access to cash and health benefits and/or the publicly-financed LTSS necessary to achieving partial independence. Such a campaign should provide information about opening ABLE account to advance CIE and economic self-sufficiency.
- d. Through the development and dissemination of technical assistance, SSA and its federal partners should improve and sustain the capacity of localities, states, and employment networks to bring to scale effective practices (peer mentoring career coaching, apprenticeship, professional development opportunities, financial planning, self-determination, self-advocacy, resource leveraging and systems navigation support). These practices assist SSI/SSDI recipients in seeking optimal employment

- while simultaneously preserving access to any needed ongoing public benefits and LTSS necessary to move toward partial or full self-sufficiency.
- e. SSA and its federal partners should review the results of providing technical assistance to determine if effective support practices, including financial education and coaching, can divert working age people with disabilities from needing long-term access to SSI/SSDI.
  - f. Congress should direct the Social Security Advisory Board [42 U.S.C. § 903] to review the requirements for SSA eligibility, including the definition of disability; recommend changes to align with the expectations in the Workforce Innovation and Opportunity Act (WIOA); and remove unnecessary barriers. The Social Security Advisory Board should then report to Congress on the recommended statutory changes needed to ensure that individuals with disabilities continue to have access to supplemental income but are encouraged and incentivized to maximize their productivity and self-sufficiency with the goal being to reduce overall reliance on SSI or SSDI.
  - g. Through additional research, SSA and its federal partners should develop additional recommendations on establishing incentives that offset the cash security value of SSDI or SSI. Examples of potential incentive strategies include but are not limited to an enhanced earned income tax credit, a guaranteed on-ramp to cash benefits as needed for eligible beneficiaries, or the establishment of a guaranteed benchmark to ensure ongoing access to health care coverage and LTSS.

#### Rationale/Detail

Research indicates that even among individuals receiving SSDI or SSI who express a desire to become employed and perhaps become self-sufficient someday, many of their decisions and actions related to working and earning money are heavily influenced by their fear of the real or perceived consequences of employment. Typically, the fears individuals experience are described as solely that of fearing the loss of cash and health coverage benefits. While this is a major factor, it is far from the only one.<sup>64</sup> These can include:

- Losing cash and health benefits, financial stability and personal security.<sup>65</sup>
- Falling deeper into poverty, debt, dependency, depression, etc.<sup>66</sup>
- Complexity and misunderstanding of SSA rules surrounding work and earnings that are seen as arbitrary and punitive.<sup>67</sup>
- Scarcity of Resources, or having “less than” adequate money, time, health and wellbeing, education, skills, work history, options, supports, accessibility, fair chances, friends and other resources.<sup>68</sup>

- Unpredictability and instability in terms of having little control over one’s life and no room for taking risks.<sup>69</sup>
- Nonconformity, or going against the cultural norms of what it means to be “disabled”.<sup>70</sup>
- Success, and as a result, leaving the familiar behind and exposing oneself to new pressures and demands.<sup>71</sup>
- Failing, or not measuring up or achieving a goal and being ridiculed and humiliated.<sup>72</sup>

In certain instances, an individual’s disability can cause or exacerbate these responses. SSA and in some cases VR, Medicaid, and others fund Work Incentives Planning and Assistance Project (WIPA) grant programs and related activities that help individuals better understand and use provisions meant to incentivize their employment and reduce their reliance on cash benefits. When evaluated, WIPAs have proven modestly effective at dispelling fears surrounding loss of benefits.<sup>73</sup> For the most part, however, current efforts address such fears in a circuitous manner by providing information on work incentives. While providing information is necessary, information sharing alone is insufficient in effectively helping address the legitimate and at times perceived fears and barriers experienced by individuals with significant disabilities.

If we want individuals to be free of living in fear of what might happen if they work and earn “too much,” however, we must equip them with the knowledge, skills, abilities and tools they need to succeed at doing so. This starts with working with individuals to develop, master, nurture and sustain essential attributes and building blocks to ACCESS<sup>74</sup> Success, including:

- **Autonomy:** Exercising the power to make sound decisions and improve your life
- **Confidence:** Believing and trusting you have what it takes to succeed
- **Connection:** Belonging to and valued as an integral part of a larger whole
- **Equality:** Having the fair chance of succeeding at what you work hard to achieve
- **Status/Skilled:** Possessing the knowledge, skills and abilities that others demand
- **Safety:** Free of fear and free to take acceptable risks, change, grow and thrive

Steps that could move us in this direction include tasking SSA to work with federal partners, states, the disability community, researchers, foundations and others to develop and coordinate the implementation of a comprehensive, longer-term research and development system change/capacity strategy (5-10 years) that will increase knowledge about, access to and the effectiveness of:

- Peer mentoring and support offered by a peer who has successfully navigated returning to, or beginning CIE.<sup>75</sup>

- Increasing access to information for youth with disabilities and families about the importance of pursuing employment and employment incentives built into SSI/SSDI, as well as alternatives to SSI/SSDI prior to transition years.
- Career coaching, apprenticeship and development opportunities (including but not limited to accessing apprenticeship programs offered through America’s Job Centers).
- Financial planning, self-determination, self-advocacy, supported decision making, confidence development and resiliency skill-building activities.
- Assuring ongoing continual access as needed to support navigation through rough patches, relapses and other barriers that may impede optimal self-sufficiency.
- Clarifying through increased public messaging to the public, applicants and beneficiaries that receiving SSDI or SSI does not need and should not become a lifetime occupation for those able to earn a better living.
- Demonstrating that the government consistently supports, rewards and protects those who earn their way off SSI/SSDI public rolls.
- Conducting research and pilots to identify barriers and promising practices for equipping individuals with the abilities, skills, accessible resources and resilience to anticipate, prepare for, adapt to and effectively manage a range of minor and major shocks, changes and events.
- Gaining a better understanding and accentuating the positive effects that access to health coverage through the Affordable Care Act can have on the employment, independence, health and economic well-being of individuals with significant disabilities.
- Supporting and requiring VR agencies, ENs, WIPAs, Protection and Advocacy for Beneficiaries of Social Security (PABSS) and others to explicitly focus on building the self-confidence, reliance and capabilities of current working beneficiaries so they can take control of their lives, careers and financial independence over the long haul.
- Tracking the employment and economic status of these workers via a longitudinal survey and using the findings and insights to improve their long-term career prospects.
- Identifying alternatives to guardianship and evaluating the impacts of supported decision making.
- Engaging federal, state, business, philanthropic and disability community stakeholders in framing and carrying out these efforts.

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- <sup>58</sup> Wittenburg, D.C., & Loprest, P.J. (2007). Early transition experiences of transition-age child SSI recipients: New evidence from the national survey of children and families. *Journal of Disability Policy Studies*, 18, 176-187.
- <sup>59</sup> Fraker, T., & Rangarajan, A. (2009). The Social Security Administration's youth transition demonstration projects. *Journal of Vocational Rehabilitation*, 30, 223–240.
- <sup>60</sup> Integrated day services refers to community-based pursuits determined by individual choice that complement CIE and that provide a meaningful set of activities outside of scheduled work hours. Wrap-around supports refers to those complementary services that enable individual to find and sustain employment such as affordable housing, transportation, and other supports necessary to facilitate individual availability to pursue CIE.
- <sup>61</sup> Altschuler, 2005, Davis, n.d.; Davis & Sondheimer, 2005; Hoffman, Heflinger, Athay, & Davis 2009, Manteuffel, Stephens, Sondheimer, & Fisher, 2008, Stewart et.al, 2010
- <sup>62</sup> The Department of Education, Office of Special Education Programs, in partnership with SSA, is targeting the 14 - 16 age group in the current Promoting Readiness for Minors on SSI (PROMISE) demonstration projects. CareerACCESS project is another SSA demonstration targeting young adults with disabilities, ages 18-30 to save their assets and keep their disability benefits while they build their careers.
- <sup>63</sup> Optimally employed means being employed at the maximum number of hours an individual is able to work and at the highest possible wages he or she can attain.
- <sup>64</sup> SSA, National Beneficiary Survey Fact Sheet 4: Reasons SSA beneficiaries with disabilities reported for not working in 2004. 2009.
- <sup>65</sup> John Kregel, [Making SSDI Work Better for Beneficiaries -- Testimony before the U.S. House of Representatives' Ways and Means Committee, July 9, 2015.](#)
- <sup>66</sup> Ibid.
- <sup>67</sup> Ibid.
- <sup>68</sup> Sendhil Mullainathan and Eldar Shafir (2013), [Scarcity: Why Having Too Little Means So Much](#). Also see: Boston Globe Review. Eldar Shafir, Sendhil Mullainathan, Christopher Bryan, Crystal Hall, Anandi Mani and Anuj Shah. [On the Psychology of Scarcity](#), Columbia Business School and the Robin Hood Foundation, 2012. Morgan Kelly, [Poor concentration: Poverty reduces brainpower needed for navigating other areas of life](#), Princeton News, August 29, 2013. See study: Anandi Mani, Sendhil Mullainathan, Eldar Shafir and Jiaying Zhao, [Poverty Impedes Cognitive Function](#). Science, August 30, 2013.
- <sup>69</sup> Ibid. Also see: Seligman, M. E. (2006). *Learned Helplessness*. Random House: Vintage Books; and, (2011). *Learned Optimism*. Vintage Books; Random House; and Richard H. Thaler and Cass R. Sunstein, [Nudge](#). Penguin Books, 2009.
- <sup>70</sup> NBS Fact Sheet 4, op cited. See also: Jennifer Engle, ["Fear of Success" Revisited: A Replication of Matina Horner's Study 30 Years Later](#). ERIC, 2003.
- <sup>71</sup> Engle, op cited.
- <sup>72</sup> Timothy A Pychyl Ph.D., [Fear of Failure](#). Psychology Today, February 13, 2009.
- <sup>73</sup> See Kregel, op cited.
- <sup>74</sup> Kristen Hansen, Presentation to the SSA Senior Staff on the Neuroscience on Leadership. November 6, 2015.
- <sup>75</sup> Shery Mead & Mary Ellen Copeland (2000), [What Recovery Means to Us](#) , Plenum Publishers, New York, NY; Helene L. Povencher, Robin Gregg, Shery Mead & Kim T. Mueser (2002) [The Role of Work in the Recovery of Persons with Psychiatric Disabilities](#), Psychiatric Rehabilitation Journal 26 (2).; Oscar Jimenez, Peggy Swarbrick, Mathew Mathai, Lara Wojcik and Jay Yudof, [Building A Cross Disability Peer Employment Support Model – Report to the New York State Medicaid Infrastructure Grant](#), Office of Mental Health 2009.

## Chapter Six: Increasing Competitive Integrated Employment in the AbilityOne® Program

### Introduction

The AbilityOne® Program, if reformed as recommended, has the potential to create employment opportunities on a broad scale for individuals who are blind or have significant disabilities. Currently, the program enables the federal government to purchase products and services from organizations that employ individuals with disabilities. It is authorized by the Javits-Wagner-O'Day (JWOD) Act, a federal law passed in 1971 that requires all federal agencies to purchase specified supplies and services from nonprofit agencies employing persons who are blind or have other significant disabilities. The roots of JWOD go back 77 years to the Wagner-O'Day Act of 1938, the same year that the Fair Labor Standards Act (FLSA) was passed, with provisions that allow people with disabilities to be paid subminimum wages under Section 14(c) of the FLSA. This was done because it was thought to be the only way to create any employment opportunities at all in the midst of the Great Depression.

Much has changed since that time in terms of federal policy regarding individuals with disabilities. Our country has largely left behind this era when children with significant disabilities were barred from public schools, people with significant disabilities were institutionalized for life, and society assumed that people with significant disabilities were unable to learn, contribute to society, work and make decisions about their lives. Modern disability policy – as reflected in the Americans with Disabilities Act (ADA) and other federal laws – embraces high expectations, including that of full inclusion of people with disabilities in all aspects of life including the workplace. Competitive integrated employment (CIE), as part of the mainstream workforce, is now the expected and priority outcome that the federal government and many states are embracing. However, AbilityOne has not evolved to fully reflect modern disability policy goals, including those enshrined in the ADA and the Supreme Court's decision in *Olmstead v. L.C.*

AbilityOne currently represents a national network of over 600 nonprofit agencies that sell products and services to the U.S. government. According to the AbilityOne presentation to the Committee, during fiscal year 2014, there were 46,630 workers across 565 agencies engaged in contract work under the program. The Committee for Purchase from People Who Are Blind or Severely Disabled, referred to as the AbilityOne Commission in this chapter, is the federal agency authorized to administer the AbilityOne Program.

The AbilityOne Program permits only a limited pool of federal contractors to compete for contracts. In Fiscal Year 2014, AbilityOne awarded approximately \$2.8 billion in

noncompetitive federal contracts to Qualified Nonprofit Agencies (NPAs) that employ people who are blind or have other significant disabilities. Those eligible for these contracts must be NPAs formally affiliated with the AbilityOne Program. The specified supplies and services provided by NPAs are determined by the AbilityOne Commission. The qualified NPAs must ensure that at least 75 percent of the labor hours necessary to complete AbilityOne contracts are completed by people who are blind or have other significant disabilities. The NPAs that participate in AbilityOne may pay subminimum wages to individuals with disabilities working on these contracts using authority granted through Section 14(c) of the FLSA, although a recent declaration by AbilityOne signaled the intent to end this practice.

Although AbilityOne represents a longstanding initiative that offers employment to a large number of individuals who are blind or have other significant disabilities, there are several aspects of the current program that the Committee examined that may inhibit increasing CIE. These include: (1) potential conflicts of interests in determining who is eligible to participate, as this determination is made by the participating NPAs who function as both the employer and the employment support service; (2) the 75 percent contract hour requirement, which essentially segregates workers from the mainstream workforce; (3) the lack of requirement or expectation that AbilityOne contract work will offer a path to CIE opportunities in typical private and public sector businesses and employers; and (4) the fact that the Commission, as an oversight body, was not designed to ensure that the AbilityOne Program is aligned with federal disability policy as it has evolved over time. The Committee's Interim Report (September 2015) provides additional review of the program and its impact and effect.<sup>76</sup>

Despite several changes to the program's oversight and processes, and despite notable expansion in contracts and the numbers of individuals employed, the 77-year-old program does not fully reflect contemporary disability employment policy direction and goals. In light of the ADA, the Supreme Court *Olmstead* decision, and the Workforce Innovation and Opportunity Act (WIOA), there is a need to reform the current structure and operation of AbilityOne, identifying alternatives for program participation eligibility, ratios of program participants with and without disabilities, and the business models of the program contractors who hire the workers. The primary recommendations below address the need for program reform, the need to identify and test new methods of federal contract operation and oversight for the program, and the need to evaluate the implementation of these new methods. Taken together, these recommendations represent a comprehensive approach to modernizing the AbilityOne Program.

## **Recommendations**

1. *Congress should amend JWOD to fully align the Act with modern federal disability law and policy goals, including the Americans with Disabilities Act, the Supreme Court's Olmstead decision, and WIOA. This amendment should include provisions requiring that CIE be a goal*

*of participation in the AbilityOne® Program. Key features of an amended JWOD Act should include:*

- a. *New criteria and processes for procurement selection that consider the following:*
  - i. The process for selecting the NPA for a contract should be outside of the purview of the Central Nonprofit Agencies (CNAs), i.e., National Industries for the Blind (NIB) and Source America. Additionally, the role and function of the Commission and the CNAs should reflect revisions to the procurement selection processes and to ensure the avoidance of any conflict of interest.
  - ii. A selection process that allows at least two qualified vendors to be referred to the Commission for each contract in order to enable greater opportunity, transparency, and competition for contracts. Contracts should also be re-competed at prescribed intervals.
  - iii. Expand opportunities for contractor selection to nonprofit organizations not associated with NIB or SourceAmerica, as well as for-profit companies. An independent study, per Recommendation Number 3 below, should evaluate this and other potential vendor selection criteria, including vendor preferences that might be given to small businesses owned by individuals with disabilities.
  - iv. A selection process that awards additional preference to vendors who can document they have assisted AbilityOne employees' transition into CIE.
  - v. The Inspector General staff located at AbilityOne provides oversight and should be involved in the development of a new selection criteria and process.
  - vi. The composition of the AbilityOne Commission should reflect the diversity of its constituents: At least 50 percent of its members should be individuals with disabilities and experts in disability employment policy and workforce development for people who are blind or have significant disabilities.
- b. In conjunction with the independent research under Recommendation Number 2 below, the current requirement that 75 percent of the contract hours under AbilityOne be completed by individuals who are blind or have significant disabilities should be considered, and the following be taken into account:
  - i. The feasibility of measuring the 75 percent ratio or any similar ratio, including recommendations for other program participation thresholds or eligibility criteria.
  - ii. Changing the ratio of individuals who are blind or have a significant disability to non-disabled individuals working on contracts to avoid congregation of



people with disabilities in the workplace and to meet the goal of CIE without reducing the number of jobs available to people with disabilities.

- iii. Introducing pilot projects that substantially reduce the contract hour percentage, as well as authorizing NPAs to increase the percentage of work that may be subcontracted to for-profit companies where there is an obligation for subcontractors to hire AbilityOne participants. New pilots should also test the awarding of AbilityOne contracts from federal customers to private industries who would be allowed to meet the minimum work hour requirements with CIE opportunities elsewhere in their business outside the contract. All pilots should be subject to independent evaluation to inform future decisions about contract hour requirements.
  - iv. Any changes in contract hour percentages or the ratio of workers with disabilities working on AbilityOne contracts or other recommendations for establishing new program participation criteria or measures should be planned in a manner to mitigate unintended harm to current AbilityOne workers -- where career interests and skills are assessed, additional training is provided, opportunities are provided for some employees to experience CIE prior to placement, and employees are updated on their employment options and support services available to them.
- c. *Consistent with the intent of the March 2016 AbilityOne Declaration, immediately eliminate the use of the FLSA Section 14(c) certificates for all contractors providing products or services to Federal customers under the AbilityOne Program in order to ensure that all employees receive at least the greater of the federal minimum wage, the state minimum wage or the prevailing wage and receive the benefit of relevant labor law coverage, including the National Labor Relations Act and the full scope of FLSA protections.*
- d. *Based on the above mentioned reforms, establish new criteria for who is eligible to work on AbilityOne contracts that reflect the following principles:*
- i. All individuals with disabilities are presumed employable. Participating in AbilityOne should not be predicated on the belief that employment is not possible for certain individuals except through congregate work conditions and “set aside” federal contracts.
  - ii. Eligibility for AbilityOne, that is, the documentation of a significant disability, should be determined independently and not by the NPAs who compete for the federal contracts. Criteria could include, for example: receipt of public disability benefits that require the identification of a significant disability such as SSI/SSDI; receipt of employment services through state

vocational rehabilitation (VR), Intellectual/Developmental Disabilities (I/DD), or Mental Health (MH) agency; and/or through designation by the Veterans Administration of a significant disability. A working group, per Recommendation Number 3 below, should evaluate these and other potential eligibility criteria, particularly in light of any reforms to the program.

2. *Congress should direct and facilitate, through any necessary funding, research on current use of AbilityOne in order to identify:*
  - a. The extent to which the program is currently servicing the intended, targeted population of individuals who are blind or have significant disabilities and recommendations to increase participation of this population if necessary.
  - b. Methods to ensure compliance with any current or newly-established participation threshold in Recommendation 1.c. above, including sources of available data at the state and/or federal level and the feasibility of establishing an internal AbilityOne data-driven or other tracking/verification process.
  - c. The extent to which the continued separation between the target populations of individuals who are blind and individuals who have significant disabilities is consistent with modern disability policy, and recommendations to unify the two target populations into a single eligibility category, should Congress determine this is more consistent with current disability policy goals.
  - d. Resources of available data at the state and federal level to determine AbilityOne's compliance to established hiring thresholds. Congress should direct the state and/or local entities possessing this data to share it with AbilityOne for these purposes. Where necessary, these agencies should amend or modify their internal rules for data sharing for this specific purpose, as long as the data transfer is compliant with established state and/or federal disclosure laws.
3. *Congress should authorize an independent third-party evaluation tasked with studying the implementation of the recommendations as submitted herein, and submit a report that identifies and recommends additional policies that may be required to implement the changes necessary to reform the JWOD Act as indicated above. This evaluation should be informed by research, completed within a required frame, and should solicit input from various AbilityOne stakeholders and knowledgeable experts such as:*
  - a. Individuals who are current or potential employees under the AbilityOne Program
  - b. Advocates for these individuals
  - c. Subject matter experts on CIE
  - d. Government and private sector economists

- e. Representatives from relevant federal agencies
  - f. Current or potential AbilityOne vendors
  - g. Representatives with in-depth knowledge of the AbilityOne Program
  - h. Policy experts on federal policy, including the ADA, *Olmstead*, and WIOA
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<sup>76</sup> Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, Chapter Seven: AbilityOne® Program, September 2015.

## Appendix A: Statutory Language establishing the Committee

### **“SEC. 609. ADVISORY COMMITTEE ON INCREASING COMPETITIVE INTEGRATED EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIES.**

“(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Workforce Innovation and Opportunity Act, the Secretary of Labor shall establish an Advisory Committee on Deadline.

29 USC 795n.

29 USC 795m.

29 USC 795l.

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Increasing Competitive Integrated Employment for Individuals with Disabilities (referred to in this section as the ‘Committee’).

“(b) APPOINTMENT AND VACANCIES.—

“(1) APPOINTMENT.—The Secretary of Labor shall appoint the members of the Committee described in subsection (c)(6), in accordance with subsection (c).

“(2) VACANCIES.—Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner,

in accordance with the same paragraph of subsection (c), as the original appointment or designation was made.

“(c) COMPOSITION.—The Committee shall be composed of—

“(1) the Assistant Secretary for Disability Employment Policy, the Assistant Secretary for Employment and Training, and the Administrator of the Wage and Hour Division, of the Department of Labor;

“(2) the Commissioner of the Administration on Intellectual and Developmental Disabilities, or the Commissioner’s designee;

“(3) the Director of the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, or the Director’s designee;

“(4) the Commissioner of Social Security, or the Commissioner’s designee;

“(5) the Commissioner of the Rehabilitation Services Administration, or the Commissioner’s designee; and

“(6) representatives from constituencies consisting of—

“(A) self-advocates for individuals with intellectual or developmental disabilities;

“(B) providers of employment services, including those that employ individuals with intellectual or developmental disabilities in competitive integrated employment;

“(C) representatives of national disability advocacy organizations for adults with intellectual or developmental disabilities;

“(D) experts with a background in academia or research and expertise in employment and wage policy issues for individuals with intellectual or developmental disabilities;

“(E) representatives from the employer community or national employer organizations; and

“(F) other individuals or representatives of organizations with expertise on increasing opportunities for competitive integrated employment for individuals with disabilities.

“(d) CHAIRPERSON.—The Committee shall elect a Chairperson of the Committee from among the appointed members of the Committee.

“(e) MEETINGS.—The Committee shall meet at the call of the Chairperson, but not less than 8 times.

“(f) DUTIES.—The Committee shall study, and prepare findings, conclusions, and recommendations for the Secretary of Labor on—

“(1) ways to increase the employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive integrated employment;

“(2) the use of the certificate program carried out under Section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c));

Recommendations.

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U.S.C. 214(c)) for the employment of individuals with intellectual or developmental disabilities, or other individuals with significant disabilities; and

“(3) ways to improve oversight of the use of such certificates.

“(g) COMMITTEE PERSONNEL MATTERS.—

“(1) TRAVEL EXPENSES.—The members of the Committee shall not receive compensation for the performance of services for the Committee, but shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the Committee.

“(2) STAFF.—The Secretary of Labor may designate such personnel as may be necessary to enable the Committee to perform its duties.

“(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(4) FACILITIES, EQUIPMENT, AND SERVICES.—The Secretary of Labor shall make available to the Committee, under such arrangements as may be appropriate, necessary equipment, supplies, and services.

“(h) REPORTS.—

“(1) INTERIM AND FINAL REPORTS.—The Committee shall prepare and submit to the Secretary of Labor, as well as the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives—

“(A) an Interim Report that summarizes the progress of the Committee, along with any interim findings, conclusions, and recommendations as described in subsection (f); and

“(B) a final report that states final findings, conclusions, and recommendations as described in subsection (f).

“(2) PREPARATION AND SUBMISSION.—The reports shall be prepared and submitted—

“(A) in the case of the Interim Report, not later than 1 year after the date on which the Committee is established under subsection (a); and

“(B) in the case of the Final Report, not later than 2 years after the date on which the Committee is established under subsection (a).

“(i) TERMINATION.—The Committee shall terminate on the day after the date on which the Committee submits the Final Report

# Appendix B: Advisory Committee Charter

## U.S. Department of Labor

### **ADVISORY COMMITTEE CHARTER** **Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities**

#### **Purpose**

The Workforce Innovation and Opportunity Act (WIOA) makes significant improvements for individuals with disabilities, including youth with disabilities as they transition from education to employment, by helping to ensure these individuals have opportunities to acquire the skills and training they need to maximize their potential and enter competitive, integrated employment. Among the many new provisions designed to strengthen and improve employment for all individuals with disabilities is the establishment of an Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities.

#### **Committee's Official Designation (Title)**

Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the Committee).

#### **Authority**

The Committee is authorized under section 609 of the Rehabilitation Act of 1973, as amended by section 461 of WIOA. It is established in accordance with the provision of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The Committee will act in accordance with FACA and its implementing regulations.

#### **Objectives and Scope of Activities**

The Committee shall study and prepare findings, conclusions, and recommendations for the Secretary of Labor on:

- (1) Ways to increase the employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive integrated employment;
- (2) The use of the certificate program carried out under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)) for the employment of individuals with intellectual or developmental disabilities, or other individuals with significant disabilities; and
- (3) Ways to improve oversight of the use of such certificates.



## **Description of Duties**

The Committee advises the Secretary of Labor on the development and implementation of coordinated policies and job-driven strategies across federal agencies to improve opportunities for competitive integrated employment and economic advancement for individuals with intellectual, developmental or other significant disabilities, including both youth and adults. The Committee will evaluate the use of subminimum wages under section 14(c) of the Fair Labor Standards Act (FLSA) in light of the goals outlined for competitive, integrated employment and advise the Secretary of Labor on policies and practices that will lead to a significant and systematic reduction in the misuse of the 14(c) certification program and the dependence on subminimum wages and segregated service placements. In doing this, the Committee will:

- (1) review existing Federal policies to identify and recommend strategies and changes to break down barriers that impede pathways to competitive integrated employment outcomes for youth and adults with intellectual, developmental or other significant disabilities, including recommendations related to employment services, and long-term services and supports, family support and transportation as they relate to competitive, integrated employment;
- (2) provide recommendations for modernizing the service delivery system and expanding the implementation of job-driven strategies and practices to promote partnerships among education, workforce and rehabilitation entities, providers of employment-related long-term services and support, employers, and others that increase the marketable skills and competitive integrated employment outcomes of youth and adults with intellectual, developmental or other significant disabilities leading to economic self-sufficiency. This includes improving the knowledge, skills, and abilities of youth and adults with intellectual, developmental or other significant disabilities, educators, service professionals and families, building leadership and organizational capacity, increasing employer engagement, offering work-based learning, and strengthening accountability and making better use of data;
- (3) recommend systems-change strategies needed to ensure that competitive integrated employment is the first option for people with intellectual, developmental or other significant disabilities. This includes aligning policy, practice and funding across Federal agencies to support competitive integrated employment and economic advancement as the preferred outcomes of job-driven training and related employment services through regional collaborations among a variety of public and private partners, data sharing, leveraging resources, and employment and earnings outcome measurement and evaluation; and
- (4) review the use of the certificate program under section 14(c) and recommend ways to improve oversight of the use of these certificates and reduce the reliance on such certificates.

## **Agency or Official to Whom the Committee Reports**

The Committee makes recommendations and reports to the Secretary of Labor. The Committee will prepare and submit an Interim Report to the Secretary of Labor, summarizing its progress, along with any interim findings, conclusions, and recommendations not later than one year after the date which the Committee is established. The Committee will prepare and

submit a Final Report, with findings, conclusions, and recommendations to the Secretary of Labor not later than two years after the date on which the Committee is established.

The Committee will provide Interim and Final Reports to the Senate Committee on Health, Education, Labor, and Pensions, and the House Committee on Education and the Workforce.

### **Support**

The Department of Labor's Office of Disability Employment Policy (ODEP) will provide support to the Committee to enable it to carry out its duties. Other Department of Labor agencies, including the Wage and Hour Division (WHD) and the Employment and Training Administration (ETA), will contribute resources to support the Committee.

### **Estimated Annual Operating Costs and Staff Years**

\$400,000; 2.5 staff years

### **Designated Federal Officer (DFO)**

The Deputy Assistant Secretary of ODEP, a permanent employee, appointed in accordance with agency procedures, will serve as the DFO. The DFO will approve or call all advisory committee and subcommittee meetings, prepare and approve all meeting agendas, attend all committee meetings, and adjourn any meeting when the DFO determines adjournment to be in the public interest.

### **Estimated Number and Frequency of Committee Meetings**

The Committee is required to meet at the call of the Chairperson, but not less than eight times.

### **Duration**

The Committee shall terminate one day after the date on which it submits its Final Report. The Final Report is to be prepared and submitted not later than two years after the date on which the Committee is established.

### **Termination**

As specified in Section 609, the Committee shall terminate one day after the date on which it submits its Final Report. The Final Report is to be prepared and submitted not later than two years after the date on which the Committee is established.

### **Membership and Designation**

Membership shall consist of seven ex officio members: the Assistant Secretary of Disability Employment Policy, the Assistant Secretary for Employment and Training

Administration, and the Administrator of the Wage and Hour Division of the Department of Labor; the Commissioner of the Administration on Intellectual and Developmental Disabilities, or the Commissioner's designee; the Director of the Centers for Medicare and Medicaid Services, or the Director's designee; the Commissioner of Social Security, or the Commissioner's designee; the Commissioner of the Rehabilitation Services Administration, or the Commissioner's designee.

It shall further consist of approximately 15-17 representatives, appointed by the Secretary, with at least one from each of the following constituencies consisting of:

- Self-advocates for individuals with intellectual or developmental disabilities;
- Providers of employment services, including those that employ individuals with intellectual or developmental disabilities in competitive integrated employment;
- Representatives of national disability advocacy organizations for adults with intellectual or developmental disabilities;
- Experts with a background in academia or research and expertise in employment and wage policy issues for individuals with intellectual or developmental disabilities;
- Representatives from the employer community or national employer organizations; and
- Other individuals or representatives of organizations with expertise on increasing opportunities for competitive integrated employment for individuals with disabilities.

The Committee shall elect a Chairperson of the Committee from among the appointed members of the Committee.

Except as otherwise required by Section 609, the Committee's membership will be consistent with the applicable FACA regulations. Membership on the Committee will be fairly balanced, and members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the Committee. The composition of the Committee will depend upon several factors, including: (i) the Committee's objectives; (ii) potential geographic, ethnic, social and environmental impact of the Committee's recommendations; (iii) the types of specific perspectives required, as previously outlined; (iv) the need to obtain divergent points of view on the issues before the Committee; and (v) the relevance of state, local or tribal governments to the development of the Committee's recommendations.

To the extent permitted by FACA and other laws, Committee membership also should be consistent with achieving the greatest impact, scope and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation and gender identity.

**Subcommittees**

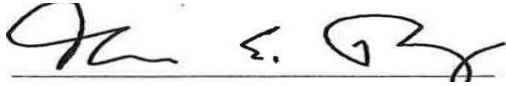
The Secretary, through ODEP, may create subcommittees which must report back to the Committee. Subcommittees must not provide advice or work products directly to the Secretary or to Congress.

**Recordkeeping**

The records of the Committee, formally and informally established subcommittees, shall be handled in accordance with General Records Schedule 26, Item 2, "Records Created by Advisory Commissions, Committee, Councils, Boards and Other Groups Established under the FACA." These records shall be available for public inspection and copying subject to the Freedom of Information Act (5 U.S.C. 552).

**Date**

**This charter** is amended on the date indicated below and expires on September 15, 2016.



**DEC 2 2014**

**THOMAS E. PEREZ**

**Date**

Secretary of Labor

## Appendix C: Committee Member Biographies

### Federal Official Members



**David Weil, Administrator  
Wage & Hour Division  
U.S. Department of Labor**

Dr. David Weil was sworn in as the Administrator of the Wage and Hour Division on May 5, 2014. Dr. Weil is an internationally recognized expert in public and labor market policy; regulatory performance; industrial and labor relations; transparency policy; and supply-chain restructuring and its effects. Prior to this appointment, Dr. Weil served as professor of economics and the Peter and Deborah Wexler Professor of Management at Boston University School of Management. He also served as co-director of the Transparency Policy Project at the Ash Institute at Harvard's Kennedy School of Government. He has written three books on labor market policy, including the recently published *The Fissured Workplace*. He has authored numerous articles and publications in a variety of economics, public policy, management, and industrial relations journals and books, as well as numerous publications in non-academic outlets.

No stranger to the Department's mission or its work, Dr. Weil has served as an adviser to both the Wage and Hour Division and to the Occupational Safety and Health Administration, as well as to a number of other government agencies. He also has served as mediator and adviser in a range of labor/union and labor/management settings across the globe. In addition to his work for the Department, his research has been supported by the National Science Foundation, the National Institutes of Health, the Russell Sage Foundation, the Alfred P. Sloan Foundation, and the National Institute of Occupational Safety and Health, among others. Dr. Weil received his B.S. at Cornell University and M.A. and Ph.D. in public policy at Harvard University.



**Jennifer Sheehy, Deputy Assistant Secretary  
Office of Disability Employment Policy  
U.S. Department of Labor**

Jennifer Sheehy is the Deputy Assistant Secretary in the Office of Disability Employment Policy, U.S. Department of Labor. Prior to her current position, Jennifer spent ten years at the U.S. Department of Education in many roles, including Director of Policy and Planning in the Office of Special Education and Rehabilitative Services (OSERS), acting Director of the National

Institute on Disability and Rehabilitation Research (NIDRR), acting Deputy Commissioner of the Rehabilitation Services Administration and Special Assistant to the Assistant Secretary of OSERS. Jennifer came to the Department of Education from the Presidential Task Force on Employment of Adults with Disabilities where she was Senior Policy Advisor and served a detail as Associate Director in the White House Domestic Policy Council. Before she joined the task force staff, Jennifer was Vice President of the National Organization on Disability and Director of its CEO Council. Jennifer earned a BA from Cornell University and graduated with honors from Georgetown University, where she received her MBA.



**Portia Wu, Assistant Secretary  
Employment & Training Administration  
U.S. Department of Labor**

As the Assistant Secretary of Labor for Employment and Training, Portia Wu works to advance job-driven skills training. Previously, she served as Special Assistant to the President for Labor and Workforce Policy at the White House Domestic Policy Council (DPC). From 2011 to 2012, she served as the Senior Policy Advisor for Mobility and Opportunity at DPC. Prior to joining the Administration, she was the Vice President at the National Partnership for Women and Families from 2010 to 2011. From 2003 to 2010, Ms. Wu worked at the Senate Health, Education, Labor, and Pensions (HELP) Committee in a number of roles, including Labor and Pensions Counsel, Chief Labor and Pensions Counsel, and Labor Policy Director and General Counsel.

Prior to working in the U.S. Senate, Ms. Wu was an attorney at Bredhoff & Kaiser, PLLC, and clerked for Judge Richard A. Paez in the United States District Court for the Central District of California. Ms. Wu received a B.A. from Yale College, an M.A. from Cornell University, and a J.D. from Yale Law School.



**Bob Williams, Deputy Commissioner  
Administration on Disabilities  
Administration on Community Living  
U.S. Department of Health and Human Services**

Bob Williams is the Deputy Commissioner, Administration on Disabilities and Director, Independent Living Administration. Prior to his appointment, Mr. Williams served as a Senior Advisor to the Deputy Commissioner for Retirement and Disability Policy in the Social Security Administration's Office of Retirement and Disability Policy. Mr. Williams formerly served as a Senior Advisor to the Acting Associate Commissioner of the Social Security

Administration's Office of Employment Support Programs. Immediately prior to this, he was the Special Assistant to the Director of the Washington, DC Department on Disability Services. He has also advised the Kaiser Foundation, the Commonwealth Fund and others on policy issues affecting the health, independence and economic well-being of Americans with disabilities of all ages.

From 1993-2000, Williams served as Commissioner on Developmental Disabilities and then as the Deputy Assistant Secretary for Disability, Aging and Long Term Care Policy in the U.S. Department of Health and Human Services. In 1990, he worked on enacting the Americans with Disabilities Act and began his career serving on a court appointed monitoring team charged with closing Forest Haven, the District of Columbia's institution for people with developmental disabilities.

**John O'Brien, Senior Policy Advisor and Elderly Health Programs Group  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Services**

John O'Brien is the Senior Policy Advisor for the Disabled and Elderly Health Programs Group at the Centers for Medicare and Medicaid Services. Previously, John was the Senior Advisor to the Administrator on Health Care Reform at the Substance Abuse and Mental Health Services Administration (SAMHSA). John O'Brien was the Director of several national projects funded by the Robert Wood Johnson Foundation to develop strategies for coordinating funding for human services from federal, state and local dollars. Prior to his work at SAMHSA, Mr. O'Brien worked with the Technical Assistance Collaborative for fifteen years as a Senior Consultant. He has provided consultation to over 30 states and local human services authorities. He has worked with Medicaid, state mental health and substance abuse authorities. He has worked with states to develop federal Medicaid Waivers, Medicaid state plan amendments, and federal grant applications (e.g., children's system of care).

Mr. O'Brien has also been a manager at KPMG Peat Marwick and worked for the Eunice Kennedy Shriver Center, the Massachusetts Developmental Disability Council, the Illinois Governor's Office, and the Illinois Legislative Commission on Mental Health, Mental Retardation and Substance Abuse. He was a program staff at Thresholds, Inc. in Chicago.



**Janet LaBreck, Commissioner  
Rehabilitation Services Administration  
U.S. Department of Education**

As commissioner of the Rehabilitation Services Administration, Janet LaBreck oversees programs that help people with disabilities find employment and live more independently. Prior to that role within the U.S. Department of Education, she was the Commissioner of the Massachusetts Commission for the Blind (MCB), a position she held since 2007.

Ms. LaBreck joined the MCB in 1985 as Consumer Advocate. She has served in a number of positions at the MCB since then, including Independent Living Coordinator, Vocational Rehabilitation Counselor, and Regional Director of Central Massachusetts. Since 2005, she has worked as an Adjunct Professor at Assumption College, where she teaches courses in rehabilitation of the blind and case management in rehabilitation. She was awarded an honorary Doctorate of Humane Letters from the New England College of Optometry. She received a B.A. from the University of Massachusetts and an M.Ed. from Springfield College.



**Robert Pfaff  
Deputy Associate Commissioner  
Office of Research, Demonstration and Employment Support  
U.S. Social Security Administration**

Robert Pfaff is the Social Security Administration's Deputy Associate Commissioner in the Office of Research, Demonstration and Employment Support (ORDES) where he has served since 2013 as the executive responsible for the administration of SSA's Ticket to Work Program. Rob began his career in 1995 at the Maryland Disability Determination Services where he conducted medical claims reviews and authorized determinations for individuals applying for Social Security disability benefits. In 1999 he was selected to become Unit Supervisor where he managed a unit of 8 disability adjudicators and 2 clerical staff. In 2001, Rob was selected by the Social Security Administration to draft disability policy and regulations including medical Listings, vocational policy, and the conversion of disability application forms into electronic format. In 2004, Rob was selected by the Office of Program Development and Research to serve as a certified Contracting Officer's Representative (COR) leading disability research projects. He subsequently became the component lead on homeless initiatives by serving as the SSA representative on the United States Interagency Council on Homelessness (USICH).



In 2012, Rob was selected as the Division Director in the Case Management Office in the Office of Medical and Vocational Expertise (OMVE) where he led a unit of 45 disability adjudicators, clerical staff and managers in the adjudication of disability claims in support of state disability agencies and federal Hearings units. Rob served in this capacity until his selection as Deputy Associate Commissioner in ORDES in 2013. Rob is a 1994 graduate of Towson University where he majored in History and Social Science and minored in Secondary Education.

## **Public Citizen Members**

### *Self-Advocate Category*

#### **Patrick Hendry – Mental Health America**



Patrick has worked as a mental health advocate for the past twenty-four years. His areas of expertise include social inclusion, self-directed care, recovery-based trainings, peer workforce development and peer-run programs. In his capacity at Mental Health America he is currently developing the first national certification program for employing people living with psychiatric disabilities in private behavioral health care. In 1992 he co-founded the first peer-run organization in Florida to contract directly with the State for the provision of services and has, since that time, assisted with the development of numerous peer-run programs. He is a strong supporter of the inclusion of mental health consumers in all aspects of the mental health system.

#### **Karen McCulloh – McCulloh & Associates Consulting**



Karen McCulloh understands firsthand the opportunities and challenges in the workforce development system for the disability community. A professional registered nurse (RN) specializing in neurosurgical intensive care who also worked in community health nursing, as a nurse executive and as a nurse entrepreneur, McCulloh was initially informed that she was being considered for sheltered employment after developing multiple disabilities before her first in-person meeting with her vocational rehabilitation counselor. McCulloh's personal experience spurred her in a new professional direction. Unable to find employment as a healthcare professional after becoming disabled, McCulloh became the first RN in the state of Illinois who has multiple disabilities to set up a for-profit practice while creating her own specialty in nursing, Community

Health Disability Education. She also co-founded the National Organization of Nurses with Disabilities, NOND, [www.nond.org](http://www.nond.org) in 2003. She has worked for the past 24 years in the workforce development arena for and with people representing cross-disabilities. She has worked with local, state, national and global corporations focusing on CEO education. McCulloh's work extends to the promotion of healthcare careers for qualified veterans and civilians with disabilities and to the development of supports and best practices for healthcare professionals who are mature workers that become disabled after licensure.

In 2005, McCulloh accepted the founding Executive Director position of disabilityworks, an initiative set up at the Chicagoland Chamber of Commerce where she focused her work in the Northeast Region of Illinois on the employment of people with disabilities, an initiative that went statewide in 2007. In 2006, McCulloh accepted a federal appointment from the U.S. Secretary of the Department of Labor to the National Job Corps Advisory Committee and was appointed as the Chair of the Disability Subcommittee. She was the only person with a disability to serve on this advisory committee.

In 2008, McCulloh resigned from her federal appointment to serve on President-elect Barack Obama and Vice President-elect Joe Biden's Transition Team in Washington, D.C. while continuing as executive director for disabilityworks. In 2010, she resigned as the executive director of disabilityworks to reestablish her own independent contracting business, Karen McCulloh & Associates Consulting. She received a Presidential Appointment from President Obama to the U.S. AbilityOne Commission in 2011.

In October 2012, McCulloh joined National Disability Institute as the founding Project Director for the LEAD Center while telecommuting, a position she held until resigning in October 2013. Karen is a graduate of Loyola University of Chicago and Grant Hospital School of Nursing in Columbus, Ohio.

### **Santa Perez** – People First of Nevada



Statewide President, People First of Nevada Live, Laugh, Love, Advocate Santa Perez – Advocate Co-coordinator for the People First of Nevada Project funded by the Nevada Governor's Council on Developmental Disabilities (NGCDD) Santa Perez is from Southern California where she was very active in the self-advocacy movement. She earned her Bachelors of Arts degree in Psychology from Cal State Northridge. When Santa moved to Las Vegas in the mid-1990s, she discovered that there were no advocacy groups for people with disabilities. This was unacceptable for Santa and she started her quest to bring a self-advocacy group to Nevada. Santa

completed the Partners in Policy Making program in 1999 at The University of Nevada, Reno. Their UCEDD had just started a new project, AmeriCorps Vista (Volunteers in Services to America), and she was informed that they wanted her to become a member. This became her golden opportunity to fulfill her goal of bringing a self-advocacy group to Nevada. Through this project, Santa co-founded People First of Nevada and her dream is now a reality with 7 chapters all around the state. Santa is a very proud and active President of the People First of Nevada. She has testified before the state legislation and was instrumental in getting the Signature Stamp Law and the People First Respectful Language Law passed. Santa is currently working for Community Chest of Nevada, reporting through the NGCDD as an Advocate Co-Coordinator for the People First of Nevada Project. She has given many presentations at national conferences around the country. In her personal life Santa has accomplished many things. She has her own home and is a part of her community, but in her eyes, her greatest accomplishment is her son Noah.

### ***Provider Organizations***

**Brian Itzkowitz** – Goodwill Industries of Arkansas



Brian Itzkowitz, President and CEO of Goodwill Industries of Arkansas, a nonprofit organization whose mission is to help build lives, families and communities by assisting people with disabilities and other special needs reach their highest potential through training, education and employment services. Itzkowitz joined the agency in August 2008, and has over 16 years of experience in the Goodwill network. Since his arrival, Goodwill has seen the people served increase by over 500%, people placed in employment increase 40 fold, and has created more than 500 jobs internally. Currently, he oversees more than 700 employees and 38 retail and donation locations across the state.

Prior to Goodwill Industries of Arkansas, Itzkowitz served as Vice President of Retail Operations at Goodwill Industries of Southwest Florida. He began his nonprofit career at Goodwill Industries of the Chesapeake in Baltimore, Maryland as director of retail operations. Collectively, Itzkowitz has over 20 years of senior management experience. Itzkowitz maintains active involvement in several professional and community service organizations.

Currently, he serves on both the Arkansas Workforce Investment Board and the Little Rock Workforce Investment Board, Arkansas State Rehabilitation Council and Goodwill Industries International's board of directors. He is also involved in other local nonprofit organizations, serving on the Boards of the CARTI Foundation, Arkansas Society of Association Executives,

University of Miami Alumni Board of Directors, University of Arkansas – Little Rock College of Business Advisory Board and serves on the leadership team for Arkansas Walk Now for Autism Speaks. Itzkowitz is also an active member of the Rotary Club of Little Rock. He holds a bachelor's degree in international finance and marketing from the University of Miami. Additionally, he has been certified as Chief Executive Officer, and is a graduate of Goodwill's Executive Development program.

**Christine McMahon** – Fedcap



Christine McMahon joined Fedcap in 2009 and has championed the organization's strategic growth, significantly increasing the nonprofit's size as well as its service delivery and reach among people in need throughout the Northeast.

Ms. McMahon has more than 25 years' experience in social and mental-health services in New York and New England. She is nationally recognized for the breadth of her strategic vision and her expertise across a wide range of social programs, for the implementation of numerous social-service-delivery and community-based initiatives, and for influencing state and local healthcare and social policy. She previously served as Senior Vice President and COO of an Easter Seals region that encompassed New Hampshire, Vermont, Maine, Rhode Island, New York and Massachusetts.

Ms. McMahon received her Master of Health Administration from the University of New Hampshire and her BA in Psychology from New England College. Her numerous honors include the New Hampshire Business Review-Outstanding Women in Business Award, the National Easter Seals – Lou Lowenkron Award for Program Innovation, the Division for Children, Youth and Families – Director's Choice Award, and the Riverbend Community Mental Health – Rainbow Award.

## National Disability Organizations

**Alison Barkoff** - Bazelon Center for Mental Health Law



Alison Barkoff served on the Committee as the Director of Advocacy at the Bazelon Center for Mental Health Law. In September 2016, she became the Director of Advocacy at the Center for Public Representation. She works on policy and litigation related to community integration and inclusion of people with disabilities, including Olmstead, Medicaid, employment, housing, and education. From 2010 to 2014, she served as Special Counsel for Olmstead Enforcement in the Civil Rights Division of the Department of Justice. In that position, she led the Division's efforts to enforce the right of individuals with disabilities to live, work and receive services in the community. Under her leadership, the Division issued its first Olmstead guidance and was actively involved in Olmstead litigation across the country, including numerous cases culminating in statewide system reform settlement agreements.

During her time with the federal government, Ms. Barkoff also worked with the Centers for Medicare & Medicaid Services on finalizing rules governing Medicaid-funded community-based services and with the Department of Labor on implementation of its new home care rule in Medicaid-funded disability service systems. Prior to her time with the government, she worked at the Bazelon Center and at other public interest organizations on Olmstead enforcement, disability discrimination, Medicaid, employment, and education cases. She clerked for U.S. Supreme Court Justice Sonia Sotomayor when she was on the U.S. Court of Appeals for the Second Circuit, and for Judge William Pauley of the United States District Court for the Southern District of New York. She is a graduate of Cornell University and Emory University School of Law. Ms. Barkoff also is a sibling of an adult brother with a developmental disability.

## **Ruby Moore** – National Disability Rights Network



Ruby Moore is the Executive Director of the Georgia Advocacy Office, the designated Protection and Advocacy System for People with Disabilities in Georgia. Moore is nationally known for her work in the disability field over the past 40 years, particularly in the areas of employment, augmentative communication, and the design and implementation of supports necessary for people with significant disabilities to live, work, play, and go to school in the community. Her experience includes growing up with family members with disabilities, working in both institutional and community settings, running provider organizations, working within and outside government bureaucracies, individual and

systemic advocacy, directly supporting individuals to obtain employment, housing, and other supports necessary to live in the community, and working to improve local, state and national disability policy.

Moore has over 35 years of experience helping people wrongly considered “unemployable” due to type or level of disability, to get jobs and build careers. She was one of the original architects of the national supported employment initiative and was one of a small group of people working on early national technical assistance grants to the states for their statewide systems change initiatives. She ran an employment institute in MA, and was an employment provider for 16 years. She helped to set up statewide employment institutes and technical assistance centers in NH and CT. Moore also ran a federally-funded model demonstration program securing high quality employment for people with dual sensory impairments (“deaf-blindness”) in New England, replicated the project in California. She has provided technical assistance across the United States and in several other countries. Moore hosts a statewide employment initiative in GA.

## **Ari Ne’eman** – Autistic Self Advocacy Network



Ari Ne’eman is the President and co-founder of the Autistic Self Advocacy Network, an advocacy organization run by and for Autistic adults seeking to increase the representation of Autistic people across society. In 2009, President Obama nominated Ari to the National Council on Disability, a federal agency charged with advising Congress and the President on disability policy issues. He was confirmed by the Senate in July 2010 and currently chairs the Council’s Entitlements Committee. From 2010 to 2012, he served as a public member to the Interagency Autism Coordinating Committee, a Federal advisory committee that coordinates all efforts within the Department of Health and Human Services concerning autism. Ari also served as an adviser to the DSM-5 Neurodevelopmental Disorders Workgroup convened by the American Psychiatric Association.

Appointed by Governor Jon Corzine, Ari served as Vice Chair of the New Jersey Adults with Autism Task Force, where he represented autistic adults in reviewing the state’s autism services. He also previously served on the New Jersey Special Education Review Commission, where he authored a minority report on the topic of aversives, restraint and seclusion. He is also a board member of TASH, an advocacy organization focusing on advancing social justice for people with significant disabilities. In addition, he was named by the New York Jewish Week as one of their “36 by 36” in 2010. He has a bachelor’s degree from the University of Maryland-Baltimore County, where he studied political science in the Sondheim Public Affairs Scholars Program.

## **Academia/Research**

### **Vicki (Valerie) Brooke, M.Ed.** – Virginia Commonwealth University



Ms. Brooke has been with Virginia Commonwealth University since 1979 earning a M.Ed. in Special Education with an emphasis on employment for people with disabilities. Ms. Brooke was one of our country’s original job coaches and has served as the Center’s Director of Training for over 20 years. In addition to these responsibilities, in the last several years she has also managed an employment services program as a vendor with Virginia Department of Aging and Rehabilitative Services and Virginia Medicaid Waiver program, serving individuals with intellectual disabilities, autism, brain injury and spinal cord injury. Ms. Brooke has served as the Project Director/Principal Investigator for multiple national and state grants all related to employment of people with significant disabilities and has gained close

working relationships with vocational rehabilitation managers, public school systems, and community businesses both through the vendorship and as a Board member of the Virginia Business Leadership Network.

Ms. Brooke has served on the editorial board for Journal of Vocational Rehabilitation since 2000 and is a frequent speaker, consultant and contributor to the literature with numerous book chapters, journal articles, newsletters, and briefing papers. She is committed to creating opportunities that support the full partnership of people with disabilities that are achieved through community integrated competitive employment.

**David Mank, Ph.D.** – Indiana Institute on Disability and Community; **Committee Chair**



David Mank, Ph.D., is the Director of the Indiana Institute on Disability and Community at Indiana University, Indiana's University Center for Excellence on Disabilities, and Full Professor in the School of Education.

As a writer and researcher, Dr. Mank has an extensive background in the education and employment for persons with disabilities. He has authored or coauthored numerous articles and book chapters. His interest also includes a focus on the transition of persons with disabilities from school to employment and community living.

Mank holds a Bachelor's Degree in Psychology and English from Rockhurst College in Kansas City (1975), a Master's from Portland State University in Special Education (1977), and a Doctorate in Special Education and Rehabilitation from the University of Oregon, Eugene (1985).

Mank is a member of the editorial boards of the Research and Practice for Persons with Severe Disabilities (TASH), the Journal of Vocational Rehabilitation, the Journal of Disability Policy Studies, Siglo Cero, and Associate Editor for the journal on Intellectual and Developmental Disabilities.

He has served on the Board of Directors of the American Association on Intellectual and Developmental Disabilities. He is Past President of the Association of University Centers on Disabilities. He was a founding board member of APSE, The Network on Employment. He was recipient of the Franklin Smith Award for National Distinguished Service from The Arc of the United States.



## Employers

**Jim Brett** – President and Chief Executive Officer, The New England Council



James T. Brett, President and Chief Executive Officer of The New England Council, was appointed to those positions by the Council's board of directors in October 1996. Mr. Brett has been a leading voice in advocating for public policy issues such as health care, education, financial services and energy throughout New England and Washington, D.C.

Before joining the Council, Mr. Brett served for more than fifteen years as a member of the Massachusetts House of Representatives. He held a succession of important leadership positions, including the chairmanship of two of the most significant committees in the Massachusetts legislature, Banking and the Committee on Taxation. In these positions, he brought together various constituencies to create economic opportunity for the Commonwealth's citizens and businesses. He previously served as Chairman of the Joint Committee on Banks and Banking, the Joint Committee on Criminal Justice, the Joint Committee on Congressional Redistricting, the Joint Committee on Counties, and the House Committee on Legislative Redistricting.

Mr. Brett recently served as the Chairman of The President's Committee for People with Intellectual Disabilities and continues to serve as a member, as well as serving as Chairman of the Governor's Commission on Intellectual Disability. Mr. Brett is Past President of the Board of Directors of the Massachusetts Association for Mental Health.

In addition to a Bachelor's degree from American University, Mr. Brett holds Master's degrees in Public Administration from both Suffolk University and the John F. Kennedy School of Government at Harvard University.

## **Oswald (“Oz”) Mondejar - Partners Continuing Care**



Oz Mondejar is the Senior Vice President of Mission and Advocacy for Partners Continuing Care (PCC). Comprised of the Spaulding Rehabilitation Network and Partners HealthCare at Home, PCC is a member of Partners HealthCare and one of the largest not-for-profit post-acute providers in the country. In his role, Mr. Mondejar touches on many areas from community outreach to workforce development as well as implementation of key initiatives such as “Working Partners”, recognized as a first of its kind public/private partnership between Spaulding Rehabilitation Network and the Massachusetts Rehabilitation Commission that works to break down barriers to employment for people with disabilities.

Over his distinguished career in the private and public sector, Mr. Mondejar has served in numerous leadership positions with a focus on human resources and community relations. A significant focus for him has been on work force development opportunities for the community with disabilities and employer education by striving to demystify the obstacles both real or perceived, to considering qualified candidates with disabilities.

With a practical result based approach, he has continually demonstrated the significant economic value to businesses and society as a whole of engaging this largely untapped talent pool. Mr. Mondejar has worked with a wide variety of businesses from small local employers to large global corporations to develop models and processes to enhance their recruitment and retention programs by incorporating the community with disabilities. He has been recognized numerous times by public and private organizations for his work in this arena as well as for a lifetime of mentorship and youth development.



**Steve Pemberton** – Divisional Vice President and Chief Diversity Officer, Walgreens

Fortune 50 Executive, Author of “A Chance in the World” & Voice of Change for Youth. A ward of the state for much of his childhood, Steve Pemberton has made opportunity, access, and equality pillars of his personal and professional life. One of America's most inspiring executives, he is recognized as a leader on matters of diversity and inclusion and their importance to the growth of the American industrial complex.

Overcoming seemingly insurmountable odds, Pemberton has gone from being a forgotten ward of the Commonwealth of Massachusetts to becoming a trailblazing Divisional Vice President at Walgreens and the first Chief Diversity Officer for the 113 year old company. As such, he directs activities to help serve diverse markets and populations, including customers in medically underserved areas, food deserts, and urban areas, as well as strengthens relationships with diverse suppliers and communities. Prior to that, he made history as the first Chief Diversity Officer and Vice-President of Diversity and Inclusion for an Internet start-up while at [Monster.com](http://Monster.com).

His memoir, *A Chance in the World: An Orphan Boy, a Mysterious Past, and How He Found a Place Called Home*, chronicles his difficult path through foster care and his determined search for his family. Pemberton's story has garnered nationwide attention and has been captured in major media outlets such as *People Magazine*, *The Steve Harvey Show* and multiple news networks.

Hollywood has taken notice and is currently adapting *A Chance in the World* into a screenplay. In the corporate world, Pemberton is recognized as an enlightened executive driven by his commitment to diversity and the capacity to lead through adversity. As founder of the non-profit *A Chance in the World*, he focuses on connecting people who are in need of a chance with people willing to give them one that will help move them in their desired direction in life. He also serves on several boards including *The Home for Little Wanderers* where *The Pemberton Fund for the Future* has been established in his name. Furthermore, as a board member of *UCAN*, he assists in providing guidance and offering inspiration to children in need.

## Other Experts

**Cesilee Coulson** – Washington Initiative for Supported Employment



Ces brings 20 years of experience in training and development to her position, including, leadership development, Employment First strategy development and non-profit management. She designs, implements and manages employment training and technical assistance projects that increase employment opportunities and outcomes. She holds certifications as an Executive Coach by the Hudson Institute and a Somatic Executive and Leadership Coach by the Strozzi Institute. She is a past board member for National APSE, the National APSE Foundation and is a current board member with the Community Employment Alliance (a WA State Association of Employment Agencies). She holds a Master's Degree in Social Psychology/Exercise and Movement Science from the University of Oregon. Ces lives in Bellingham, WA where she enjoys sailing in the San Juan Islands, golfing, camping and gardening with her family and two dogs.

**Sharyn Hancock** – Workforce Essentials Inc.



Sharyn Hancock is assigned as the Disability Resource Coordinator at Workforce Essentials, Inc. a non-traditional, private, non-profit organization delivering workforce development services for Tennessee Department of Labor and Workforce Development in middle Tennessee overseeing the Tennessee Career Center System and delivery of Adult, Dislocated and Youth programs to Job Seekers and Employers.

Sharyn Hancock has been charged with addressing accessibility issues or other barriers preventing individuals with disabilities from fully utilizing Career Center services at the 9 county career centers, as well as managing their Workforce Investment Board Employment Network through the Social Security Administrations Ticket to Work Program. Her 20 years' experience in the public workforce system has led Sharyn to obtain strong expertise in working with job seekers, employees, employers and youth of all levels and backgrounds. Sharyn holds a Bachelor of Science in Business Administration from Everest University, in Fort Lauderdale, Florida.

**Rita M. Landgraf** – Delaware State Department of Health & Social Services



Rita M. Landgraf was sworn in as Secretary of the Department of Health and Social Services on Jan. 22, 2009. As Secretary, she leads the principal agency charged with keeping Delawareans healthy, advancing initiatives that promote self-sufficiency while ensuring that those citizens who are most vulnerable receive the appropriate services and supports that produce quality of life outcomes. She oversees one of the largest departments in the Delaware government, with an annual state budget of more than \$1 billion.

Landgraf, who has spent more than 30 years of her career in support of individuals with disabilities, served as a key adviser to Gov. Jack Markell during his yearlong initiative as Chair of the National Governors Association to increase employment opportunities for people with disabilities. The Governor’s 2012-2013 initiative, “A Better Bottom Line: Employing People with Disabilities,” culminated with the release of a [blueprint](#) for his fellow governors specifically focused on the role that state governments and businesses can play in creating more employment opportunities for people with disabilities and on improving employment outcomes. Landgraf continues to work with the Governor to increase employment opportunities for individuals with disabilities in Delaware’s private, nonprofit and public sectors.

Secretary Landgraf has been a leader on health care, disabilities, and senior issues, including formerly as executive director of The Arc of Delaware, where she was instrumental in creating a community based job development and placement program, and during her tenure at The Arc provided guidance to self-advocates in creating Delaware People First. Landgraf also served as the Executive Director of the National Alliance on Mental Illness in Delaware, and president of AARP Delaware. For her efforts, the University of Delaware inducted her into the University Of Delaware Alumni Wall Of Fame in June 2011, and she will be inducted into the Delaware Women’s Hall of Fame this March.

**Lisa Pugh** – Disability Rights Wisconsin



Lisa Pugh is the Public Policy Coordinator for Wisconsin's Disability Policy Partnership and Policy Director for the state's Protection and Advocacy agency, Disability Rights Wisconsin. In this role she educates policymakers at the state and federal level and coordinates and informs the work of other advocates, coalitions and organizations that support people with disabilities in Wisconsin. The policy partnership is a unique collaboration of Disability Rights Wisconsin, the Board for People with Developmental Disabilities and People First Wisconsin. As a

Joseph P. Kennedy, Jr. Foundation Public Policy Fellow in 2009-2010, served as a disability policy advisor in the U.S. House of Representatives Committee on Education and Labor and in the Office of the Under Secretary at the U.S. Department of Education.

Lisa has worked to advance initiatives and train advocates, including people with disabilities, on a variety of issues. In the past year she was instrumental in coordinating support for significant investments in integrated, competitive wage employment initiatives for people with disabilities and extending access to long-term care programs throughout Wisconsin. She is currently the policy lead on Wisconsin's youth Partnerships in Employment systems change grant - Let's Get to Work - funded through the Administration on Intellectual and Developmental Disabilities and serves as Education Issue Team Lead for the statewide Survival Coalition of Wisconsin Disability Organizations. In May 2014 Lisa was appointed by President Obama to serve on the President's Committee for People with Intellectual Disabilities. Lisa lives in Madison, Wisconsin. She has three children, one of whom as a developmental disability.

**Fredric Schroeder** – Interwork Institute at San Diego State University



Dr. Fredric K. Schroeder was born in Lima, Peru, in 1957. He and his brother Steve were adopted and moved to the United States when he was nineteen months old. Born with normal vision, Dr. Schroeder became blind at the age of seven after suffering a severe allergic reaction known as Stephens-Johnson's Syndrome. As a result, his vision deteriorated over a nine-year period, leaving him totally blind at the age of sixteen.

Following graduation from high school, Dr. Schroeder attended the Orientation Center for the Blind in Albany, California. There he joined the National Federation of the Blind, and his involvement in the disability consumer movement has been central to his life and work ever since. His professional achievements are impressive. In 1980, Dr. Schroeder returned to New Mexico to work as a teacher of blind children for the Albuquerque Public Schools. Six years later, Dr. Schroeder was appointed the New Mexico Commission for the Blind's first executive director. In 1994, President Bill Clinton appointed Schroeder to serve as the ninth commissioner of the Rehabilitation Services Administration (RSA) within the U.S. Department of Education. As RSA commissioner he administered a \$2.5 billion dollar program providing services to more than one million people with disabilities each year. He focused on high-quality employment—better jobs, jobs with a future, jobs enabling people to achieve a good and equitable standard of living. His crowning achievement as RSA commissioner was ending the practice of having state vocational rehabilitation agencies place people with disabilities in segregated employment settings, often at subminimum wages.

Following his service as RSA commissioner, he joined the faculty of the Interwork Institute at San Diego State University. He now works as a research professor specializing in leadership and public policy in vocational rehabilitation. He also serves as the Executive Director of the National Rehabilitation Association, a grassroots organization of rehabilitation professionals. His involvement in the National Federation of the Blind also continues. On July 5, 2006, Dr. Schroeder was unanimously elected first vice president of the National Federation of the Blind, and he often represents the Federation at national and international meetings and conferences. Dr. Schroeder has also held a number of leadership positions internationally. He was the founding president of the International Council on English Braille and presently serves as the first vice president of the World Blind Union.

Dr. Schroeder attended San Francisco State University, earning a Bachelor's Degree in Psychology in 1977; a master's degree in Special Education in 1978; and a Ph.D. in Education Administration from the University of New Mexico in May 1994.

## Appendix D: Relevant Statutory and Regulatory Provisions Currently Governing the Administration of the Section 14(c) Program

**29 U.S.C. § 214 is entitled “Employment under special certificates.” The relevant passage of 29 U.S.C. § 214(c) reads:**

(c) Handicapped workers

- (1) The Secretary, to the extent necessary to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment, under special certificates, of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age, physical or mental deficiency, or injury, at wages which are—
  - (A) lower than the minimum wage applicable under section 206 of this title,<sup>77</sup>
  - (B) commensurate with those paid to nonhandicapped workers, employed in the vicinity in which the individuals under the certificates are employed, for essentially the same type, quality, and quantity of work, and
  - (C) related to the individual's productivity.
- (2) The Secretary shall not issue a certificate under paragraph (1) unless the employer provides written assurances to the Secretary that—
  - (A) in the case of individuals paid on an hourly rate basis, wages paid in accordance with paragraph (1) will be reviewed by the employer at periodic intervals at least once every six months, and
  - (B) wages paid in accordance with paragraph (1) will be adjusted by the employer at periodic intervals, at least once each year, to reflect changes in the prevailing wage paid to experienced nonhandicapped individuals employed in the locality for essentially the same type of work.
- (3) Notwithstanding paragraph (1), no employer shall be permitted to reduce the hourly wage rate prescribed by certificate under this subsection in effect on June 1, 1986, of any handicapped individual for a period of two years from such date without prior authorization of the Secretary.
- (4) Nothing in this subsection shall be construed to prohibit an employer from maintaining or establishing work activities centers to provide therapeutic activities for handicapped clients.
- (5)
  - (A) Notwithstanding any other provision of this subsection, any employee receiving a special minimum wage at a rate specified pursuant to this subsection or the parent or



guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. An employee or the employee's parent or guardian may file such a petition for and in behalf of the employee or in behalf of the employee and other employees similarly situated. No employee may be a party to any such action unless the employee or the employee's parent or guardian gives consent in writing to become such a party and such consent is filed with the Secretary.

- (B) Upon receipt of a petition filed in accordance with subparagraph (A), the Secretary within ten days shall assign the petition to an administrative law judge appointed pursuant to section 3105 of Title 5.<sup>78</sup> The administrative law judge shall conduct a hearing on the record in accordance with section 554 of Title 5<sup>79</sup> with respect to such petition within thirty days after assignment.
- (C) In any such proceeding, the employer shall have the burden of demonstrating that the special minimum wage rate is justified as necessary in order to prevent curtailment of opportunities for employment.

**The relevant provisions of 29 C.F.R. § 525, *et seq.*, entitled “Employment of Workers with Disabilities Under Special Certificates” are excerpted below:**

These provisions “[p]rovide for the employment [1] under certificates [2] of individuals with disabilities [3] at special minimum wage rates [4] which are commensurate with those paid to workers not disabled for the work to be performed [5] employed in the vicinity [6] for essentially the same type, quality, and quantity of work.” See *id.* at § 525.1.

A “worker with a disability” is “an individual whose earning or productive capacity is impaired by a physical or mental disability, including those relating to age or injury, for the work to be performed.” *Id.* at § 525.3(d).

Employers seeking a special minimum wage certificate must submit an application to the Wage and Hour Division (WHD) of the Department of Labor. See *id.* at § 525.7. In reviewing such applications, WHD is seeking to determine whether issuance of the certificate is “necessary in order to prevent the curtailment of opportunities for employment” of workers with disabilities. See *id.* at § 525.9. Certificates are issued for a particular period of time, designated by the Administrator of WHD. See *id.* at § 525.12. When a certificate is due to expire, the employer can submit an application to renew. See *id.* at § 525.13.

The employer derives the “commensurate wage” of a worker with a disability for purposes of the certificate by comparing the individual productivity of the worker with “the wage and productivity of experienced nondisabled workers performing essentially the same type, quality, and quantity of work in the vicinity in which the individual under certificate is employed. For example, the commensurate wage of a worker with a disability who is 75% as productive as the average experienced nondisabled worker, taking into consideration the type, quality, and quantity of work of the disabled worker, would be set at 75% of the wage paid to the nondisabled worker.” *Id.* at § 525.3. The prevailing wage must be based upon work utilizing similar methods and equipment. *Id.* at § 525.10. An experienced worker is one “who has learned the basic elements or requirements of the work to be performed, ordinarily by completion of a

probationary or training period. Typically, such a worker will have received at least one pay raise after successful completion of the probationary or training period.” *Id.* at § 525.3(k).

An employer that primarily employs nondisabled workers may use those employees’ productivity and wages for comparison purposes; an employer that primarily employs people with disabilities may conduct a survey of wages paid to nondisabled workers at a comparable employer “in the vicinity.” *Id.* at § 525.10. Employers may also use sources such as the Bureau of Labor Statistics or private or state employment services, where surveys are not practical. *Id.* “[T]here is no prescribed method for tabulating the results of a prevailing wage survey.” *Id.* Where an employer is unable to obtain the prevailing wage for a specific job, “such as [a job that involves] collating documents,” it can use “the wage paid to experienced individuals employed in similar jobs such as file clerk or general office clerk, requiring the same general skill levels” *Id.* Employers must be able to “demonstrate [to WHD] that the rate being used as prevailing for determining a commensurate wage was objectively determined according to [the guidelines described in this and the preceding paragraphs].” *Id.*

The initial evaluation of a worker’s productivity, in order to determine the worker’s commensurate wage, must be conducted within the first month after employment begins. *Id.* at § 525.12(j). However, “evaluations should not be conducted before a worker has had an opportunity to become familiar with the job or at a time when the worker is fatigued or subject to conditions that result in less than normal productivity.” *Id.* The employer must compensate the employee if it determines that the rate paid prior to the evaluation was lower than the commensurate wage rate. *Id.*

After the initial application for a Special Certificate, employers must have available to WHD “written assurances” that wage rates of individuals paid on an hourly rate basis (not those doing piece work) under the Certificate are being “reviewed” at least every six months, and that the wages of all employees (including those doing piece work) are being reviewed at least annually. *See id.* at §§ 525.1, 525.9, 525.12 (“Conducting reviews at six-month intervals should be viewed as a minimum requirement... Reviews must be conducted in a manner and frequency to insure payment of commensurate wages”). Employers must also “maintain and have available for inspection” records providing “verification” of each worker’s disability, evidence of the productivity of each worker with a disability, the prevailing wages paid workers not disabled for the job, and the production standards and supporting documentation used. *See id.* at § 525.16.

WHD can revoke a certificate “if it is found that the certificate is no longer necessary in order to prevent curtailment of opportunities for employment” of workers with disabilities. *Id.* at § 525.17. However, “[e]xcept in cases of willfulness or those in which the public interest requires otherwise, before any certificate shall be revoked, facts or conduct which may warrant such action shall be called to the attention of the employer in writing and such employer shall be afforded an opportunity to demonstrate or achieve compliance with all legal requirements.” *Id.*

“Any person aggrieved by any action of the Administrator taken pursuant to this part” can file a “petition for review.” *Id.* at § 525.18. “Other interested persons, to the extent it is deemed appropriate, may be afforded an opportunity to present data and views” regarding the petition. *Id.* The Administrator can conduct an investigation in response, and hold a hearing if “deemed appropriate” prior to taking any action pursuant to these regulations. *Id.* at § 525.19.

An employee receiving a special minimum wage or the parent or guardian of such an employee may petition the Secretary to review their special minimum wage rate. *Id.* at § 525.22. Such a petition may be filed on behalf of other employees “similarly situated” if those employees consent to participate in writings filed with the Secretary.<sup>80</sup> The petitioner(s) and the employer are entitled to a hearing before an administrative law judge (ALJ), review by the Secretary, and judicial review pursuant to 5 U.S.C. Chapter 7.<sup>81,82</sup>

The regulations also create an “Advisory Committee on Special Minimum Wages.” *See id.* at § 525.24.

“No provision of [the] regulations, or of any special minimum wage certificate issued thereunder, shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards.” *Id.* at § 525.20.

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<sup>77</sup> 29 U.S.C.A. § 206 (“Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates: (1) except as otherwise provided in this section, not less than -- (A) \$5.85 an hour, beginning on the 60th day after May 25, 2007; (B) \$6.55 an hour, beginning 12 months after that 60th day; and (C) \$7.25 an hour, beginning 24 months after that 60th day...”).

<sup>78</sup> 5 U.S.C. § 3105 (“Each agency shall appoint as many administrative law judges as are necessary...”).

<sup>79</sup> 5 U.S.C. § 554 (“This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing...”).

<sup>80</sup> 29 U.S.C. § 214(c)(5)(A)

<sup>81</sup> Governing review of a final agency action.

<sup>82</sup> 29 C.F.R. § 525.22

## Appendix E: Crosswalk of Committee Recommendations

This section of the report provides a list of all subcommittee recommendations and the targeted agency or organization. Below is the list of abbreviations for each of the agencies and programs that have been targeted by a recommendations followed by a cross tab for each chapter of the Interim Report.

### Abbreviations

Agency or Program	Abbreviation
Congress	United States Congress
All Federal Agencies	All Relevant Federal Agencies
DOL ETA ODEP WHD	U.S. Department of Labor Employment and Training Administration Office of Disability and Employment Programs Wage and Hour Division
ED RSA OCTAE OSEP	U.S. Department of Education Rehabilitation Services Administration Office of Career, Technical, and Adult Education Office of Special Education Programs
DOT	U.S. Department of Transportation
HUD	U.S. Department of Housing and Urban Development
SSA	Social Security Administration
HHS ACL CMS SAMHSA	U.S. Department of Health and Human Services Administration on Community Living Centers for Medicare & Medicaid Services Substance Abuse and Mental Health Services Administration
DOJ	U.S. Department of Justice
FDIC	Federal Deposit Insurance Corporation
IRS	Internal Revenue Service
Treasury	U.S. Department of Treasury
NIDILRR	National Institute on Disability, Independent Living, and Rehabilitation Research
Mental	Mental Health Agencies
State Medicaid	State Medicaid Agencies
SEA	State Education Agencies
LEA	Local Education Agencies
AbilityOne®-Com	The AbilityOne® Commission

Agency or Program	Abbreviation
AbilityOne®-NPA	AbilityOne® Nonprofit Agencies
AbilityOne®-CNA	Central Nonprofit Agencies (SourceAmerica and National Industries for the Blind)
SVRA	State Vocational Rehabilitation Agencies
SIDD	State Intellectual or Developmental Disability Agencies
State Labor	State Department of Labor Agencies
IDEA	Individuals with Disabilities Education Act

## Chapter One: Increasing Competitive Integrated Employment will require Capacity Building

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA	
11	1 The U.S. Department of Labor (DOL) should lead a collaboration of federal agencies to identify, align, and develop clear policies and practices across all federal agencies that make CIE a funding priority for all individuals with significant disabilities.	X	X					X	X		X					X	X	X	X	X	X																
12	1a. To inform the recommended collaboration effort federal agencies should:	X																																			
12	1ai. Identify states/state programs that are currently most effective in delivering services resulting in CIE outcomes for people with significant disabilities, and describe the funding strategies they are using.					X			X									X								X											
12	1aii. Develop guidance on how to braid, blend and, fully leverage available federal funding to improve employment outcomes and advance economic self-sufficiency for people with significant disabilities. This recommendation is relevant to CMS and its funding of CIE through all Medicaid authorities, including waivers, state plan services, and managed care authorities. CMS should issue specific guidance on how to use the various Medicaid authorities (especially Section 1905(a) of the Social Security Act) for funding supported employment for people with serious mental illness, as many of the Medicaid authorities commonly used to fund supported employment for other populations are not always a viable option for this population. This recommendation is also relevant to the RSA since WIOA requires a focus on CIE and development of strategies that avoid use of center-based, group or other segregated employment settings.								X										X																		
12	1aiii. Through its use of existing demonstration authorities or by seeking Congressional authorization for new authorities, CMS and other federal agencies should provide additional financial support and incentives to states, providers and/or beneficiaries to help individuals with significant disabilities achieve CIE outcomes, including by:	X																	X																		
12	1aiii1. Providing an enhanced federal match rate to states for CIE outcomes (similar to Community First Choice) or enhanced funding to providers or beneficiaries to incentivize CIE outcomes over other segregated employment or day services.																		X																		
12	1aiii2. Offering time-limited increased federal funding to states to help transition people from segregated employment settings to CIE (for example, enhanced federal match rate similar to the Money Follows the Person Program for residential transitions).																		X																		
13	1aiv. Developing demonstration or other pilot efforts with robust data collection requirements to determine what is effective in assisting states to improve CIE outcomes.																		X																		
13	1av. Supporting existing strategies and encouraging new pay for performance strategies that increase access to CIE, as well as financial education and coaching. CMS and other federal agencies should issue guidance on allowable pay for performance methodologies and initial outcomes (including milestones) to be measured and reported and that could be used by states.																		X																		

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA				
	These federal agencies should also provide technical assistance to states interested in using these payment strategies.																																							
13	1avi. Providing technical assistance to states through internal federal agency expertise (like the Office of Disability Employment Policy’s Employment First State Leadership Mentor Program) and/or funding for the use of external expertise from other states and programs that are successfully financing and implementing CIE strategies. Technical assistance should include funding strategies, capacity-building strategies at the state and provider level, and professional competence in delivering CIE.					X												X																						
13	1b. For effective implementation of WIOA and the best use of funding that leads to improved CIE outcomes, OSEP and RSA should clarify the importance of the following practices:									X	X																													
13	1bi. OSEP, should require that all youth with significant disabilities:										X																													
13	1bi1. Begin transition services or pre-employment transition services at or prior to age 14;										X																													
13	1bi2. Gain opportunities for integrated work experiences, and gain access to assistive technology and assistive technology assessments conducted by a qualified entity to assess the needs of people with significant disabilities, job coaching and other supports for a period of not less than 24 months;									X	X																													
13	1bi3. Coordinate with VR if students are considering center based or segregated employment.									X	X																													
13	1bii. RSA, in implementing WIOA, should ensure:									X																														
13	1bii1. That youth with disabilities first apply for VR services in order to receive transition services or other VR services;									X																														
14	1bii2. That students and youth in supported employment should be provided opportunities to work toward a CIE goal identified in an individual employment plan (IPE) for a reasonable period of not more than 24 months. That period may be extended as necessary, in order to achieve the employment outcomes identified in the IPE;									X																														
14	1bii3. That extending the time limit of supported employment services from 18 months to 24 months in WIOA refers to the provision of supported employment services;									X																														
14	1bii4. That funds for extended services for youth with the most significant disabilities may be used to provide extended services for up to four years or until the individual no longer meets the definition of “youth with a disability” as defined in WIOA title IV;									X																														
14	1bii5. That eligibility should be presumed for VR services for anyone in 14(c) employment who expresses interest in CIE and anyone considering center-based or segregated employment. To the extent any individuals in these categories are not already covered by existing law and policy regarding presumptive eligibility, RSA should take regulatory action and/or seek statutory changes as necessary to fully implement this recommendation.									X																														

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14	1c. Together OSEP and RSA should develop close working agreements between their agencies, including at the state and local levels, that encourage:									X		X																										
14	1c1. Students with significant disabilities to leave school either employed or with a post-school employment plan that lead to employment; and									X		X																										
14	1c2. Students with significant disabilities to participate in transition programs that include integrated work experience, internships, apprenticeships or similar job experiences; and									X		X																										
14	1c3. State Education Agencies (SEAs) and VR agencies to report results of state and local efforts to their respective federal agencies.																										X						X					
14	2 Congress should provide CMS with capacity-building funding and the authority to maximize opportunities for individuals to have access to highly skilled employment professionals working in community employment agencies, as well as the opportunity to receive services in the most integrated setting and not in settings with the effect of isolating individuals from the broader community. This funding could be modeled after the state Medicaid Infrastructure Grant (MIG) initiatives as well as the funding strategies identified in a.iii. above.	X																	X																			
15	2a. Congress should provide CMS with the authority to develop new Medicaid funding opportunities and/or issue further guidance about how existing Medicaid funding could be used to financially support training, development and ongoing technical assistance for direct support staff and providers. This will help increase capacity for providing supported employment and customized employment services that lead to improved CIE outcomes.	X																	X																			
15	2b. Guidance should be issued jointly by CMS and RSA that directs state Medicaid and VR agencies to work together to explore an agreed-upon rate structure across both systems that assures a consistent set of rates/reimbursement for both short-term and long-term services related to discovery, career planning, integrated work-based learning experiences, and supported/customized employment. This will make it possible for people who are eligible for both services (and the providers serving them) to obtain a consistent level of support for these services as they transition from VR resources to longer-term supports and services funded by Medicaid authorities.									X									X								X						X					
15	3 The Department of Health and Human Services (HHS) (including CMS, ACL, and SAMHSA) and RSA, DOL, and the designated I/DD, Mental Health, and VR agencies in each state, should: promote and fund innovative projects that result in new CIE programs within existing organizations as well as new organizations that provide only CIE services; and facilitate program transition away from sheltered employment and other segregated day services into CIE.		X							X							X	X	X	X					X	X							X					
15	3a. State I/DD and mental health agencies, state VR agencies, state education agencies, and their partners should become familiar with the Olmstead settlement agreements between DOJ and Rhode Island and between DOJ, private plaintiffs, and Oregon, both of which require these states to change their service systems to decrease the use of segregated center-based day services and increase the capacity of CIE, and should keep abreast of future <i>Olmstead</i> guidance and court decisions related to CIE.																									X	X						X	X				
15	3b. State labor, VR, I/DD, and MH agencies will need to collaborate to establish statewide public and private sector employer initiatives that encourage innovation and piloting of employer-driven			X																					X							X	X	X				



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	models that enhance services and expand outcomes. States should support innovative models so that new services can emerge for individuals new to the system by promoting, funding and supporting:																																					
15	3bi. CIE pilots or start-ups																								X												X	
15	3bii. School-to-work transition pilots																									X	X									X	X	
16	3biii. Training and technical assistance for pilots and start-ups																																					
16	3c. Providers exclusively or primarily offering sheltered, non-integrated employment services will need technical assistance to transform services to focus primarily on CIE service provision. CMS, VR, partnering federal agencies, and related state agencies, should provide short term funding for transformation efforts and make technical assistance available regarding:								X										X							X							X	X				
16	3ci. Business models including reimbursement strategies that effectively support CIE								X										X							X							X	X				
16	3cii. Deployment of staff to provide services that lead to CIE								X										X							X							X	X				
16	3ciii. Training, supporting and managing staff that provide supports for CIE								X										X						X							X	X					
16	4 Federal agencies that provide funding for people with disabilities to obtain CIE should establish a common definition of CIE and develop common outcome data points on which states that receive funding must regularly report to ensure accountability.	X																																				
16	4a. The common working definition of CIE should be derived from the WIOA and be consistent with the goals described in WIOA and the Americans with Disabilities Act as interpreted by the Supreme Court's decision in Olmstead.	X																																				
16	4b. The task of defining a common working definition of CIE should be led by DOL and include representatives from ED, HHS, SSA, and DOJ.		X				X	X								X	X			X																		
16	4c. The task of developing outcome data requirements should be led by HHS Centers for Medicare and Medicaid Services (CMS) and include other relevant agencies in HHS, DOL, ED and SSA.		X			X	X									X	X	X																				
16	4d. Regular collection and reporting by states of individual outcome data should be required to ensure accountability of funding and, at a minimum, include:																								X									X	X			
16	4di. number of people employed in jobs that meet the definition of CIE,																								X								X	X				
16	4dii. wages earned,																								X								X	X				
16	4diii. hours worked																								X								X	X				

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16	4div. length of time in CIE, and																								X														
16	4dv. benefits (e.g., paid days off)																								X														
17	4e. Additional consideration should also be given to collecting data on:																																						
17	4ei. income level over time,																								X														
17	4eii. taxes paid, and																								X														
17	4eiii. reduction of public income support (cash benefits from SSA, Temporary Assistance for Needy Families-TANF, Supplemental Nutrition Assistance Program-SNAP, and the reduction of medical coverage resulting from primary insurance through employers)															X																							
17	4f. The studies that link employment to other social and health benefits for people with serious mental illness have been helpful in demonstrating the importance of employment. Federal agencies, in particular the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), SSA, and Office of Disability Employment Policy, should study and/or provide support for studying the impacts of employment on all people with significant disabilities. The studies should look at the impact of employment on:					X										X								X															
17	4fi. utilization of healthcare services, including long-term services and supports, and utilization of acute services such as hospitals, emergency rooms, and crisis services,					X										X								X															
17	4fii. housing economic and stability,					X										X								X															
17	4fiii. use of public benefits, including public income supports, and					X										X								X															
17	4fiv. employer-based health benefits that offset public health benefits.					X										X								X															
17	4g. Federal agencies that provide funding for CIE should provide guidance, technical assistance and resources to states for implementing data systems that will collect and report the minimum individual CIE data including number of people employed in CIE, wages received, hours worked and paid days off. Congress should ensure states have sufficient funding to build effective data collection infrastructures.	X	X																																				
17	4h. Data on wages, hours, and other employment information is collected in various programs such as TANF, SSA, VR, and others. Those data systems should be examined to determine if they can contribute to building the recommended State data collection process. The review should be led by the DOL and include HHS, ED, and SSA.			X					X	X						X	X																						
17	4i. Federal agencies should ensure that state-level data and outcomes are publicly reported in consumer friendly and accessible formats so that the impact of CIE can be assessed and people	X																																					

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	with disabilities and their families can make good decisions about choosing the best pathway to employment.																																				
18	5 The state Medicaid agency, the state department of labor, the state VR agency, the state mental health agency, the designated state I/DD agency, and the state education agency in each state should: encourage the development of state/local standards or adopt national standards of professional competence in providing services to support CIE; and support professional development that includes the development of organization leaders, program managers, and professional employment staff responsible for delivering services to support CIE.																								X	X	X						X	X			
18	5a. CIE capacity-building for service provider staff needs to be driven by a common standard by which performance can be developed, supported and measured so that:																								X	X	X						X	X			
18	5ai. Pre-service and in-service training, ideally framed by certification standards, and technical assistance related to the expectation, value and outcome of CIE and skill development to facilitate CIE is provided at various levels, including:																								X	X	X						X	X			
18	5ai1. Workforce development/employment and education/training service staff of all WIOA core programs and key partners at all levels of employment (i.e. executive, supervisory, and direct service personnel)																								X	X	X						X	X	X		
18	5ai2. State agency workforce development/employment and education/training vendors																								X	X	X						X	X	X		
18	5ai3. Certification, licensing, and quality assurance personnel associated with respective state agency workforce development/employment and education/training partners																								X	X	X						X	X	X		
18	5ai4. Teachers and educators at all levels (early learning, pre-K, K-12, special education, higher education), and																										X										
18	5ai5. Medical professionals who treat individuals with disabilities, including individuals with acquired disabilities (e.g. doctors, nurses, physical therapists, occupational therapists, speech therapists, medical specialists, trauma medical staff, etc.)																																				
18	5aii. Pay scales for disability support professionals take into account certification standards so that these professionals are compensated at a rate that reflects their responsibility and expected competence in delivering services that support CIE. An effective employment system that supports CIE is contingent on the performance and retention of skilled disability support staff. The return on the federal investment in services that support CIE is consequently enhanced.																								X	X							X	X			
19	5b. CMS and RSA should collaborate with DOL, SAMHSA, ACL, and OSEP to develop new tools and supports for CIE and the advancement of economic self-sufficiency. These tools for assessing an individual's capabilities, financial health, and employment potential should be based on current, mainstream human performance methodologies and implemented by all front line case management professionals to guide the development of services and supports.		X						X	X								X	X	X																	
19	5c. ED should make personnel preparation grants to institutions of higher education to development the next generation of employment professional staff who will be implementing CIE.							X	X																												
19	5d. HHS, through NIDILRR, as well as other federal agencies that fund employment research, should prioritize research and development on CIE to establish current evidence about what		X														X							X													

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDLRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA	
	constitutes effective delivery of services that support an outcome of CIE and translate this knowledge into training curricula and practice.																																				
19	6 Congress should direct the formation of an interagency task force to develop an implementation plan for these capacity-building steps for increasing CIE and advancing economic self-sufficiency. At a minimum, this task force should include representatives from: DOL (ETA and ODEP), ED (RSA, OSEP), HHS (SAMHSA, CMS, ACL), SSA, DOJ, Federal Deposit Insurance Corporation (FDIC), and Treasury.	X	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X													
19	6a. The task force should be charged with developing the implementation plan within a specified time frame.	X	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X													
19	6b. The implementation plan will be the framework for implementing the activities outlined under the previous recommendations.	X	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X													

## Chapter Two: Capacity Building for Youth

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA				
<i>Recommendations to Bolster Early Work Experiences</i>																																								
22	1 The U.S. Department of Education (ED), Office of Special Education Programs (OSEP), within its oversight authority of Individuals with Disabilities Education Act (IDEA), should encourage the use of Indicator 14 to strengthen opportunities for youth with disabilities to gain paid integrated work experiences, including:							X			X																													
22	1a. Annual IDEA Indicator 14 reporting on all school exiters, to include postsecondary education and/or CIE with specific data on type of employment that match student choice, hours worked, and wages earned,							X			X																													
22	1b. States education agencies (SEAs) working with local education agencies (LEAs) to develop improvement plans for lower-performing schools as evidenced by IDEA indicator 14 post-school outcome data, and																										X	X												
23	1c. SEAs establishing policies for technical assistance to lower performing schools as evidenced by IDEA Indicator 14 post-school outcome data.																										X													
23	2 ED should invest in high-quality multivariate correlational research to move from promising practices to evidence-based practices that would document new models and transition assessment methods and/or tools to move youth from school to careers.							X																																
23	3 Congress should reauthorize IDEA and the Carl Perkins Career and Technical Education Improvement Act to align with WIOA and expand responsibilities of programs funded through the Act in order to support early paid work experiences for youth with the most significant disabilities. Specifically, Congress should amend IDEA to support:	X																																					X	
23	3a. setting of transition goals that are based on CIE first and “presumed employability” of all individuals,	X						X			X																												X	
23	3b. a requirement for a minimum of one competitive integrated job prior to high school exit that is documented as a transition service,	X						X			X																												X	
23	3c. required participation of both the state vocational rehabilitation services agency and the state intellectual/developmental disabilities agency at Individualized Education Program (IEP) meetings of transition-age youth, and/or or other agencies responsible for providing or paying for transition services,	X																																			X	X		X
23	3d. prohibition of Section14(c). subminimum wage employment or services as an allowable transition service or post-school outcome, and	X																																					X	
23	3e. the age of concentrated transition planning to begin no later than 14.	X																																					X	
<i>Recommendations for Family Expectations and Support</i>																																								
23	4 ED/OSEP should encourage SEAs and LEAs to use quarterly ongoing progress monitoring and reporting to parents and include a review of transition services and progress made toward achieving transition-to-career goals.							X			X																	X	X											

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23	5 ED, the U.S. Department Health and Human Services, and the Social Security Administration (SSA) should incorporate into grant priorities, training requirements, and activities, stronger guidance on post-school predictors of obtaining CIE, and resources for families.								X							X	X																					
23	5a. Specifically, federal agencies should look to enhance grant priorities and other funding sources that support families of children and youth with intellectual and developmental disabilities as well as other significant disabilities. These include Parent Training and Information Centers, Community Parent Resource Centers, Family-to-Family Health Centers, IDEA Parts B and C grantees, Family Support Programs, and Statewide Family Network Programs.		X																																			
24	5b. Stronger guidance and grant-funding requirements are needed in these areas:																																					
24	5bi. Information to families of students with disabilities about strong predictors of post-school success, to include paid, community-based, integrated work experiences prior to school exit.								X		X																											
24	5bii. Family engagement strategies to include:																																					
24	5bii1. support for the whole family in working toward shared goals for their children,								X		X																											
24	5bii2. a clear role for family participation,								X		X																											
24	5bii3. a role for successfully-employed self-advocates and their families to mentor students and their families from diverse cultures who are learning about their own possible career pathways,								X		X																											
24	5bii4. career exploration opportunities,								X		X																											
24	5bii5. building students' self-advocacy and self-determination skills, including making informed financial decisions and improving financial capability,								X		X																											
24	5bii6. progress monitoring at key transition stages en route to achieving job of choice (from early intervention, middle school, high school, to post- school, and including CIE and postsecondary education), and								X		X																											
24	5bii7. sensitivity to cultural diversity among families.								X		X																											
<i>Recommendations for Professional Development and Training</i>																																						
24	6 ED/OSEP should improve professional support and training to help students make meaningful progress toward CIE by:								X		X																											
24	6a. updating all personnel and professional development grant programs and related funding priorities (for general and special educators), to incorporate provisions related to predictors of post-school success for youth with significant disabilities,																																					
24	6b. including strategies to address the specific needs of culturally diverse families,								X		X																											

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24	6c. incorporating assessments of teacher trainee ability within special education teacher preparation programs, and							X				X																												
24	6d. disseminating information to State Education Agencies about predictors of post-school success in teacher preparation programs and post-school outcome data on youth with significant disabilities.							X			X																X													
25	7 Congress should reauthorize the Higher Education Act to:	X																																						
25	7a. reflect predictors of post-school success for youth with significant disabilities, and	X																																						
25	7b. update personnel and professional development evaluation monitoring components accordingly to ensure general and special education educators are prepared to facilitate high quality post-school outcomes for youth with disabilities.	X																																						
<i>Recommendations for Systems Integration and Seamless Transition</i>																																								
25	8 Congress should provide limited authority to the four relevant federal agencies – ED (RSA, OSEP, and the Office of Career, Technical, and Adult Education-OCTAE); HHS (Centers for Medicare & Medicaid-CMS, Administration for Community Living-ACL, Substance Abuse and Mental Health Services Administration-SAMHSA); the U.S. Department of Labor (DOL) (Employment & Training Administration-ETA; Office of Disability Employment Programs-ODEP); and SSA – to waive requirements that make it difficult for states to use and braid funds targeted at transition-age students with significant disabilities (those students participating in Alternate Assessments as defined in Every Student Succeeds Act (signed into law on December 10, 2015)	X	X	X	X	X	X	X	X	X	X	X				X	X	X	X	X																				
25	9 Congress should require these federal agencies to collaborate in order to develop opportunities for states to support local pilots that can demonstrate success when provided the opportunity to combine resources across federal programs for implementing ambitious yet achievable plans for comprehensive reform and create coordinated, seamless and sustainable CIE outcomes and advance economic self-sufficiency for youth with significant disabilities. Authority should be secured to:	X																																						
25	9a. waive statutory and/or regulatory requirements that make it challenging for states to effectively use and braid funds due to payer of last resort polices,	X																																						
25	9b. structure a pilot that allows flexible use of funds and incentive payments for achieving CIE outcomes and advancing economic self-sufficiency for youth with significant disabilities,	X																																						
25	9c. support alignment of required outcomes and reporting across relevant federal funding streams supporting youth with the most significant disabilities,	X																																						
25	9d. support presumptive eligibility processes across programs participating in the pilots, and	X																																						
25	9e. ensure access to supports and services needed for maintaining CIE – including assistive technology, transportation, and financial education and coaching.	X																																						
25	9f. The Pilot Projects should:																																							
26	9fi. target youth with significant disabilities whose achievement is measured against alternative academic achievement standards (these students constitute a small group for initial investment, are	X																																						

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	most at risk of being referred to 14(c) employment, and are often the most costly to serve in adult systems).																																					
26	9fii. require adoption of evidence-based predictors of post-school success and incentivize capacity-building efforts within federal employment programs, including technical assistance and training, to serve youth with significant disabilities,	X																																				
26	9fiii. include a robust data collection and evaluation component that tracks participant outcomes for a minimum of five years after exiting post-secondary education, and	X																																				
26	9fiv. support state and local programs in developing innovative, best practices for the hardest-to-serve populations, focused upon students with significant disabilities, including those in rural communities and those who are disproportionately underserved, by incentivizing outcomes and considering pay-for-performance models.	X																																				
26	9g. If such pilots can demonstrate on a limited basis that increasing flexibility across federal programs results in improved longitudinal outcomes for this small group of students who have traditionally experienced very low success rates, the models could be scaled to incorporate a broader group of students with significant disabilities. Additionally, by limiting pilots to this small group of students, the likelihood of granting a broader flexibility is higher.	X																																				
<i>Recommendation for Assistive Technology</i>																																						
26	10 The U.S. Department of Justice and ED should collaborate to issue specific joint agency guidance regarding Assistive Technology and quality Assistive Technology assessments as connected to the interpretation of IDEA's Free Appropriate Public Education (FAPE) and Least Restrictive Environment (LRE), WIOA Section 511, and Title II of the Americans with Disabilities Act's effective communications requirements and integration mandate (Olmstead). Specific guidance should include:							X													X																X	
26	10a. evidence-based practices that require supplementary aids and services to be provided in a competitive, community-based, integrated employment setting,							X													X																X	
26	10b. strategies to support education personnel and employment service organizations,							X													X																	X
26	10c. requirements that local and state entities (including LEAs, SEAs, VR, and Medicaid) develop joint policies, including developing or incorporating into existing interagency agreements, clarifying funding responsibilities for assistive technologies that students need to access CIE, and eliminate barriers to continued access to assistive technology as a work accommodation, allowing the technology to follow students from school to the workplace,							X													X					X	X	X				X						
27	10d. requirements to regularly review and reassess an individual's assistive technology needs, and							X													X																	
27	10e. a strengthened review of access to assistive technology for students with significant disabilities as part of state oversight, monitoring, and enforcement strategies.							X													X																	



## Chapter Three: Capacity Building through Changes in the Use and Oversight of 14(c) Certificates

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA	
29	1 Congress should amend Section 14(c) of FLSA to allow for a well-designed, multi-year phase-out of the Section 14(c) Program that results in people with disabilities entering CIE.	X																																			
29	1a. Oversight of the phase out should include:																																				
29	1ai. Enhanced data collection and analysis of 14(c) certificate holders and individuals paid under the certificate, including earnings and hours worked	X					X																														
29	1aii. Data collection and analysis of employment services received by individuals paid under the certificate and employment outcomes achieved	X					X																														
29	1aiii. Increased penalties for misuse of the certificate	X					X																														
29	1b. A federal interagency panel should be appointed, by the Secretary of Labor, to develop and oversee a detailed plan for the phase out that considers:	X	X																																		
29	1bi. Mandates of WIOA, including new requirements under WIOA for Section 14(c) certificate holders	X																																			
29	1bii. Resources for technical assistance (see Recommendation Number 3)	X																																			
30	1biii. Measures to mitigate unintended impact of service transformation on subminimum wage recipients	X																																			
30	1biv. Safeguards to ensure self-determination and that individuals are engaged and equipped with information and the opportunities necessary for understanding options and making informed choices	X																																			
30	1bv. Attention to the long-term development of career pathways for individuals	X																																			
30	2 WHD should engage in stronger enforcement of 14(c) certificates and should use a strict standard for issuance or renewal of 14(c) certificates only when "... necessary in order to prevent the curtailment of opportunities for employment ..."						X																														
30	2a. Prior to issuing a new 14(c) certificate or renewing an existing one, DOL should require a state (through the state's Medicaid agency, Department of Labor, or Department of Disability Services) to submit evidence that there is a current lack of employment opportunities for people with disabilities such that a time-limited 14(c) certificate is "necessary to prevent the curtailment of opportunities for employment" for people with disabilities, and to develop a plan for addressing the lack of opportunities. The submission must include, at a minimum, data on the existing rate of CIE within the state for the population proposed by the certificate applicant and articulate a plan, with specific timeframes and benchmarks, to expand access to CIE for the purpose of making the use of 14(c) certificates unnecessary in the future. To the extent necessary, DOL should take regulatory action to implement this recommendation.		X				X																			X								X	X		

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA			
30	2b. Require 14(c) certificate applicants to provide information along with their application to substantiate their claim that the certificate is "necessary to prevent the curtailment of opportunities for employment" for people with disabilities, including data on the availability of integrated employment and supported employment services within the region they serve. The 14(c) applicant must also describe the steps it will take to assist individuals under 14(c) to obtain CIE, including the steps it is taking as required by Section 511 of WIOA. WHD should evaluate the progress made towards meeting the timeframes and benchmarks for expanding access to CIE in determining whether to renew a 14(c) certificate. To the extent necessary, DOL should take regulatory action to implement this recommendation.			X				X																															
30	2c. WHD should incorporate input from federal partners into its 14(c) application and re-certification review processes, including the Centers for Medicare & Medicaid Services (CMS), the Administration on Community Living, the Rehabilitation Services Administration, and the U.S. Department of Justice in order to adequately evaluate the information about employment opportunities and the adequacy of remedial plans to support the issuance or renewal of 14(c) certificates.							X	X									X	X		X																		
30	3 In addition to technical assistance activities recommended in other sections of this report, federal agencies that have responsibility either through WIOA or other federal initiatives to increase CIE for people with significant disabilities – including the DOL, the U.S. Departments of Health and Human Services and Education, and the Social Security Administration -- should coordinate provision of technical assistance resources for states to encourage transforming 14(c) certificate holders to employment agencies that offer CIE.			X				X								X	X																						
31	3a. For maximum impact, provision of technical assistance should focus on those states that are successfully transforming employment options from 14(c) to CIE either because of the work these states are doing to comply with the Home & Community Based Services (HCBS) Settings Rule, the WIOA mandate, or their Olmstead obligations. The results should be shared with all states.			X				X								X	X																						
31	3b. The technical assistance resources should include, at a minimum:			X				X									X																						
31	3bi. Redesigning the business plans of non-profit employers with 14(c) certificates, typically defined as CRPs, to develop strategies that lead to and support individuals with disabilities to pursue and sustain CIE			X				X									X																						
31	3bii. Methods of re-deploying staff and restructuring staff roles			X				X									X																						
31	3biii. Staff training on CIE strategies			X				X									X																						
31	3biv. Service delivery by CRPs that ensure self-determination and informed choice, and career pathways that advance economic self-sufficiency			X				X									X																						
31	3bv. Data collection and management of CIE services			X				X									X																						
31	3bvi. Repurposing of facilities/spaces			X				X									X																						

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA									
31	3c. CMS should enforce guidance regarding the time-limited nature of pre-vocational services for the purpose of individuals moving into CIE, as opposed to moving to other non-vocational segregated services.																		X																										

## Chapter Four: Capacity Building in the Marketplace

Page No.	Recommendation Number and Description	Congress	All Federal Agencies																																		
			DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIID	State Labor	IDEA		
36	1 Congress should provide funding to DOL to develop and disseminate public service announcements and other media resources in order to conduct a dynamic and impactful national marketing campaign directed to businesses. The campaign must target employers of all sizes that promote business-to-business communication, highlight the impact and benefits to business, and highlight the accomplishments of people with I/DD and significant disabilities working in CIE.	X	X																																		
36	1a. This marketing campaign should be developed in collaboration with business representatives that have successful disability inclusion initiatives and with business leadership organizations, such as, but not limited to USBLN, NOD, and the Society for Human Resource Management (SHRM) as appropriate. The campaign should spotlight model businesses that have effectively built a more inclusive workforce through the development of outreach and recruitment strategies resulting in policies and practices specifically aimed at recruiting, hiring, and retaining employees with I/DD and other significant disabilities such as those mentioned in the introduction.		X		X																																
36	1b. The marketing campaign public service announcements (PSA) and other media resources should be directly disseminated nationwide to organizations, including, but not limited to: chambers of commerce at the state and local level, business councils, trade associations, Small Business Administration offices, and other entities. DOL should authorize and encourage these business-directed organizations to link the PSA and/or other media resources on their websites in order to educate their members about hiring people with I/DD and significant disabilities and how to connect with businesses that have successful diversity initiatives.		X		X																																
36	2 Congress should provide funding and mandates to the U.S. Department of Education (ED) and DOL to develop training that includes certification requirements that will be presented in a web-based centralized format for all employment services personnel who work within the public workforce system with businesses and individuals with I/DD and other significant disabilities.	X	X				X																														
37	2a. Nationwide web-based, centralized instruction must be developed and implemented in order to mandate that all public workforce system employment services personnel become certified to ensure the continuity of the provision of quality services to businesses and people with disabilities, in particular to people with I/DD and significant disabilities.		X				X																														
37	2b. Educational online initiatives should include, but not be limited to: all employment services personnel within the public workforce system and directed to AJC management and staff, business service representatives, Workforce Development Board members and staff, state workforce executives, and vocational rehabilitation staff.		X				X																														
37	2c. Leads to a certification credential for both current and new employment services personnel working within the public workforce system		X				X																														
37	2d. Certification requirements should build on existing standards, such as those established by the Association for Persons Supporting Employment First (APSE) Certified Employment Support Professional (CESP) exam, and augment any other existing professional standard requirements, e.g., Certified Rehabilitation Counselor		X				X																														

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			DOL																																			
37	2e. Designed to provide education through individual online modules that include, but are not limited, the following:			X				X																														
37	2ei. Disability Awareness Module that includes how to communicate and work with individuals with disabilities, with a focus directed to people with I/DD and other significant disabilities			X				X																														
37	2eii. Detailed strategies for assisting AJC customers with significant disabilities to pursue and achieve CIE			X	X			X																														
37	2eiii. Specific business-related content, including general market and industry information and specific recommendations and guidance from businesses that have successfully included individuals with significant disabilities in their workforce			X				X																														
37	2eiv. Funding including the blending and braiding of funds and their utilization			X				X																														
37	2ev. Ways to address physical, communication, and programmatic barriers to employment that may exist in AJCs			X				X																														
37	2evi. Universal access			X				X																														
37	2evii. Assistive technology			X				X																														
37	2eviii. The Social Security Administration's (SSA) Ticket to Work Program			X				X								X																						
37	2eix. Work incentives and benefits counseling			X				X								X																						
38	2ex. Financial education and counseling			X				X																														
38	2exi. Guidance on making referrals to outside agencies in order to reduce duplication			X				X																														
38	2exii. ADA education on the "Provision of Employment Services," ADA standards that address those relating to both provision of services (e.g., ADA Title II, Section 504) and employment (e.g., ADA Title I, and specific parts of Section 504 regulations (29 CFR part 32 subparts B and C), and on			X				X																														
38	2exiii. WIOA Section 188			X				X																														
38	2f. Once the online education and certification requirements are developed, the online modules should be designed so that employment services personnel may re-enter the modules so that they may access information at-will to immediately find resource information included in any module. This will ensure that personnel will be better prepared on how to communicate with businesses and to guide them through a customized approach to recruiting, hiring, retaining, advancing, and supporting employees with I/DD and significant disabilities into CIE			X				X																														

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		All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA			
38	2g. Funding for the online education initiative should include a budget for ongoing updates to keep the education on target with changing federal policies and any additional information		X				X																															
38	3 Congress should mandate that within the public workforce system a percentage of local Adult and Dislocated Worker and Vocational Rehabilitation (VR) formula funds be set-aside to support work experiences, including internships, apprenticeships, on-the-job training, and paid work experiences for individuals with I/DD or other significant disabilities.	X																																				
38	3a. AJCs and state VR agencies must further divide the mandated percentage of work-based learning funding across the customer groups of individuals with I/DD and other significant disabilities they serve. AJCs, for example, should ensure funding is divided between adults, dislocated workers, and youth with I/DD and other significant disabilities. State VR agencies must ensure funds are allocated for both adult and youth populations that have I/DD or other significant disabilities.				X			X																								X	X					
38	3b. WIOA emphasizes engaging employers across the workforce system to align training with needed skills and match employers with qualified workers. The law also emphasizes training that leads to industry-recognized postsecondary credentials. To further support WIOA's focus on CIE as the priority outcome, a percentage of all work-based learning funding must be specifically set aside and earmarked exclusively for use with youth and adults with I/DD and other significant disabilities. The amount of set-aside funding should be individually determined but mandated so that local Workforce Boards will set-aside funds for each local workforce area contingent on the local workforce needs.		X	X																																		
39	4 In order to insure that businesses have qualified workers that are educated on the impact that employment may have on their state or federal benefits, Congress should increase funding of the Social Security WIPA grant program to expand and provide opportunities for more benefit counselors to be certified, and fund the U.S. Department of Labor and Social Security Administration collaboration to promote and encourage the onboarding of Social Security Administration Ticket to Work Employment Networks (ENs) into AJC sites. WIPA grant programs should also provide information on Achieving a Better Life Experience (ABLE) accounts to advance CIE and economic self-sufficiency objectives.	X	X	X										X																								
40	4a. Congress should increase funding of WIPA grant program to support the expanding population of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability beneficiaries seeking to enter the workforce and help inform them about ABLE accounts to meet goals of CIE and advancing economic self-sufficiency.	X																																				
40	4b. In order to improve employment outcomes for individuals with disabilities, Congress should provide expanded funding for SSA benefits counseling training to service providers working directly with individuals with disabilities and receiving SSI and/or SSDI benefits. This funding would be utilized to expand the number of classes to better meet the need. Eligible service providers who would receive this training include VR, ENs, appropriate job support staff from employers of SSA beneficiaries, and other entities engaged in employment support services for this population.	X												X																								
40	4bi. Employer personnel may receive this training as they are engaged in job coaching or other roles designed to support people with disabilities. Expanded training should be facilitated through existing, accredited programs and should result in the certification of the trainee as a benefits		X	X																																		

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	counselor. This will improve employment outcomes for individuals with disabilities as they will understand about how working will allow them to make informed decisions about employment, earnings and investment.																																			
40	4c. In order to increase CIE for individuals with disabilities, Congress should fund the DOL and SSA to collaborate to promote and encourage the onboarding of AJC sites as SSA Ticket to Work ENs.	X	X												X																					
40	5 Congress should direct the Secretary of the U.S. Department of Transportation (DOT) to ensure that safe, seamless, cross-jurisdictional, accessible transportation is available for people with disabilities, including but not limited to establishing Para-transit Systems in urban and rural areas across the United States, and utilizing the latest technological and digital strategies to address the most glaring deficits, especially in rural areas.	X											X																							
40	5a. DOT should build on existing new technological and digital strategies to better address transportation issues for people with disabilities. For example, the National Center for Transit Research (NTR) provided funding to researchers at the University of Illinois (Chicago) Urban Transportation Center to develop an online tool that permits experts to evaluate accessibility by different transportation modes and use that information to improve livability. DOT should consider a grant program to fund this effort on a national scale.												X																							
40	5b. DOT should develop additional grant opportunities aimed at providing additional funding for travel training, updating safety mandate requirements, and training for transportation vendors on appropriate and respectful communication with and treatment of people with I/DD and significant disabilities. DOT should identify strategies for broad nationwide dissemination of all grant opportunities.												X																							
41	5c. DOT should create incentives, including priority status on grant applications, for employers who demonstrate commitment to hiring and sustaining CIE of individuals with disabilities by incorporating transportation solutions and supports into their business practices.												X																							
41	5d. DOT must ensure that businesses providing their own transportation services for customers and/or employees with their own transportation vendors be included in all training and educational opportunities.												X																							
41	6 Recognizing that healthcare is the fastest growing sector in the American economy, Congress should fund ED and DOL to develop initiatives that will educate employers within healthcare industries about the abilities of people with I/DD and significant disabilities and to create opportunities for people with I/DD and significant disabilities to participate in educational training, apprenticeships, and certification programs in healthcare and other high-growth fields.	X	X						X																											
41	6a. These initiatives should highlight success stories, including those from healthcare companies and institutions of higher of education, as well as showcase examples of effective partnerships between healthcare businesses and the public workforce system such as those listed in the introduction to this chapter.		X						X																											
41	6b. Because the perception may be that people with I/DD or those that have significant disabilities cannot work in healthcare careers and because some people with disabilities have been told they cannot pursue those careers, DOL and ED should provide outreach and education to individuals with significant disabilities to promote the idea that healthcare careers are an option.		X						X																											

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41	7 Congress should direct DOL to develop and implement strategies to provide additional outreach and guidance to Federal contractors working to comply with OFCCP Section 503 Rules during the ongoing “rollout” period and should fund the U.S. Department of Labor to develop and implement projects that-	X	X																																	
41	7a. Provide training on the 503 Rules to VR and AJC staff and direct the Employment and Training Administration (ETA) to disseminate guidance to regional and local workforce development boards and directors that emphasize the importance of the training and promote the participation of AJC and VR staff.				X			X																								X		X		
41	7b. Direct federal contractors to identify themselves on the state job database systems. Identifying as a contractor allows job seekers, AJC and VR staff to see the status of Federal contractor job opportunities and ultimately enhances efforts to recruit job seekers with disabilities.		X																																	
42	7c. Create pilot programs to research and identify effective strategies for federal contractors to use in outreach, recruitment, and hiring of people with disabilities since hundreds of federal contractors and subcontractors have never before included people with disabilities in their workforce. Once the studies are completed, DOL should disseminate best practices to other federal contractors to assist their development of outreach and recruitment plans directed at job seekers with disabilities. This guidance also must create employer awareness of the real fears individuals may have about disclosure and provide strategies businesses can use to proactively alleviate these fears.		X																																	
42	7d. DOL should monitor federal contractors to ensure that they provide information about the Invitation to Self-Identify which is included in the new 503 regulations in order to invite applicants to self-identify as individuals with disabilities at both the pre-offer and post-offer phases of the application process, using language prescribed by the OFCCP. The new regulations also require that contractors invite their employees to self-identify as people with disabilities every five years, using the prescribed language. In addition, incorporation of the EO Clause language is to be used when incorporating the equal opportunity clause into a subcontract by reference. The mandated language, though brief, will alert subcontractors to their responsibilities as Federal contractors.		X																																	
42	7e. Ensure that all electronic job applications provided by federal contractors include a statement directed to self-disclosure as in OFCCP form CC-335, Office of Management and Budget (OMB) Control Number 1250-0005, Voluntary Self-Identification of Disability. As directed to candidates applying for a job, the form states,		X																																	
	“Because we do business with the government, we must reach out to hire and provide equal opportunity to qualified people with disabilities. To help us measure how well we are doing, we are asking you to tell us if you have a disability or if you ever had a disability. Completing this form is voluntary, ...Any answer you give us will be kept private and will not be used against you in any way.”		X																																	
42	7f. Develop outreach materials that provide compelling reasons for individuals to disclose their disabilities to potential employers and raise employer awareness of potential self-disclosure concerns. Materials must highlight the specific benefits of disclosure as well as address the most commonly identified fears: confidentiality, possible “labeling,” and negative impact on career growth. Dissemination efforts must target individuals with disabilities as well as business organizations		X																																	



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43	7g. Implement regional federal contractor roundtable discussions to establish better relationships between DOL and federal contractors. Also, SSA and/or local Ticket to Work Program Employment Network representatives and VR business services staff can act as resources to businesses during the discussions. Goals for the roundtables must include: fostering open communication, enhancing trust and collaboration, improving understanding of different perspectives, and increasing support for the mutual goals of increasing integrated competitive employment for people with disabilities.		X												X																						
43	8 Congress should update and amend the Work Opportunity Tax Credit (WOTC), the Disabled Access Credit (DAC) and the Architectural and Transportation Barrier Removal deduction to expand eligibility criteria, increase financial benefits to eligible employers, and heighten programmatic oversight.	X																																			
43	8a. Efforts to increase WOTC utilization and to evaluate its effectiveness should include the following:		X																																		
43	8ai. Expand WOTC to include recipients SSDI benefits under Title II of the Social Security Act as a new target group.		X																																		
43	8a.iii. Monitor the new online WOTC application process to ensure that employer applications are processed in a timely fashion.		X																																		
43	8a.iii. Simplify the WOTC application process.		X																																		
43	8a.iii. Both at the federal and state level, WOTC websites should provide business-friendly information on WOTC, using language that is consistent with the federal WOTC site. The websites should include an ongoing feedback loop with employers to gather data on the efficacy of the application process, including ease of use, overall satisfaction, and suggested site improvements. The outcome of employer feedback/surveys should result in WOTC federal and state website changes based on employer suggestions that improve their access and address employer need for additional information.		X																																X		
43	8a.iii. Fund DOL to conduct an empirical longitudinal study examining the impact and effectiveness of the WOTC tax credit. In particular, the study should explore retention rates, opportunities for advancement, and the role of the WOTC in the decision to hire employees with disabilities. If possible, the study also should collect data on how many people with I/DD or other significant disabilities are hired under WOTC.	X	X																																		
43	8b. Considering the number of small businesses that are present in the American economy, Congress should revise the standards for DAC to:	X																																			
44	8bi. Expand eligibility criteria beyond the current limits of businesses with \$1 million or less in gross receipts or with 30 or fewer full time employees for the previous year, and																																				
44	8bii. Include annual indexation for inflation.																																				
44	8biii. Additionally, Congress should require the Internal Revenue Service (IRS) to develop and disseminate materials providing regulatory guidance on DAC eligibility and applicability. Materials should target employers, accountants or tax preparation professionals and should clarify what	X																				X															

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	expenses the law is intended to cover, in order to reduce the confusion small business employers have about the Disabled Access Credit.																																				
44	8c. Amend the Architectural and Transportation Barrier Removal Deduction to the Architectural, Transportation, Communication and Technology Barrier Removal:	X																				X															
44	8ci. Make it a tax credit instead of a tax deduction.	X																				X															
44	8cii. Increase the allowable amount for any size business beyond the current \$15,000 limit per year to \$35,000 a year, while taking into account inflation and the increased cost of products, construction and services;	X																																			
44	8ciii. Expand "barrier" categories to better reflect those of the modern workplace and to explicitly include both "communications" and "technology" barriers. For example, the applicability of the current deduction should be expanded to cover technological-based expenses such as software, assistive technology, and Section 508 website compliance. This will better address accessibility barriers experienced by today's employees, potential employees, and customers. Accessible websites will improve the ability of job seekers with I/DD and significant disabilities to access online job opportunities by improving visibility, navigation, and downloading of job applications. Businesses using this tax (credit) to improve communications or technology might include retailers that provide monitors for customers to access catalogue items, product information, prices and more. A tax (credit) could be used to offset the expenses associated with equipping these computer-monitors with assistive technology that would allow customers with vision loss to access the information as well.	X																																			
44	8civ. Clarify the law to ensure that accessible transportation is included in any business subsidized employee or customer transportation so that the transportation barrier removal deduction (credit) extends not merely to the physical accessibility of vehicles but to their use on behalf of people with disabilities.	X											X																								
45	8d. Considering the underutilization of tax incentives by businesses, provide funding to the IRS and DOL to develop a public campaign publicizing and explaining the tax incentives available to businesses to support the hiring and retention of employees with disabilities and/or to provide better access for employees and customers with disabilities.	X	X																			X															

## Chapter Five: Capacity Building in Specific Federal Agencies

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne@-Com	AbilityOne@-NPA	AbilityOne@-CNA	SVRA	SIDD	State Labor	IDEA	
47	1 The U.S. Department of Health and Human Services (HHS), in collaboration with the U.S. Departments of Labor (DOL), Education (ED), Transportation (DOT), and Housing and Urban Development (HUD), DOJ, and SSA, should convene a cross-agency working group to provide policy guidance and technical assistance on integrated day services and other wraparound supports that can help people with significant disabilities access CIE. At a minimum, the policy guidance should:			X				X					X		X	X	X				X																
47	1a. Clarify that the purpose of integrated day and wraparound supports is to maximize (as opposed to displace or limit) CIE, improve socioeconomic status, and facilitate authentic community involvement for people with significant disabilities.			X				X					X		X	X	X				X																
47	1b. Identify the key components, and examples, of effective practices in integrated day services; describe funding strategies available to expand integrated day services (including opportunities for using self-directed services); and suggest methods and metrics for collecting and using data on integrated day services to improve accountability and outcomes over time.			X				X					X		X	X	X				X																
47	1c. Clarify that integrated day options include, but are not limited to opportunities for mainstream, community-based recreational, social, educational, cultural, and athletic activities, including community volunteer activities and training activities, as well as other regularly occurring non-facility based activities of a person's choosing that are provided in settings which allow individuals with disabilities to interact with individuals without disabilities in a community setting to the fullest extent possible for the individual, and that such services should not include an overall facility or program schedule for the individuals receiving such services.			X				X					X		X	X	X				X																
48	1d. Clarify allowable uses of federal funds for promoting natural (i.e., non-professional), supports that help achieve the desired outcomes of CIE and socioeconomic advancement, and			X				X					X		X	X	X				X																
48	1e. Describe how funding sources and service mandates can be coalesced across systems to ensure continuity in providing the seamless wrap-around supports needed to maximize the employment and earning potential of individuals with significant disabilities.			X				X					X		X	X	X				X																
49	2 Congress should authorize the creation of a Ticket to Work demonstration focused on youth with disabilities in transition, to be co-managed by the Administration on Community Living and the Social Security Administration, in partnership with DOL, HHS, and ED. With Congressional approval, the Office of Management and Budget should provide authority for SSA and the other federal partners engaged to waive certain eligibility requirements for participants in the Ticket to Work youth demonstration so they can access services across systems with the goal of maximizing the potential of these transition-age youth with disabilities to achieve CIE and financial independence.	X		X				X								X	X																				
50	2a. Assistance with developing an Individualized Career Plan that focuses on CIE and long-term objectives to advance economic self-sufficiency			X				X								X	X																				
50	2b. Career coaching to assist in exploring career options and making good decisions about the best career plan for each individual			X				X								X	X																				

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50	2c. Counseling and guidance on navigating adult systems such as employment supports and healthcare			X					X							X	X																						
50	2d. Successful career planning to include education on work incentives and financial capability strategies to help youth learn about financial independence and workforce participation			X					X							X	X																						
50	2e. Waivers of certain federal program requirements as necessary (such as the provision of stipends to offset SSI benefit changes during pilot participation)			X					X							X	X																						
51	2f. Use of “pay-for-success” payments or other financial incentive models if the right conditions exist, and			X					X							X	X																						
51	2g. Consider a “race to the top” approach for states with graduated payments for high performing sites.			X					X							X	X																						
51	3 Informed by the findings of previous SSA demonstration projects pertaining to employment and loss of benefits and using the ACCESS (Autonomy, Confidence, Connection, Equality, Status/Skilled, and Safety) framework. SSA should collaborate with federal partners, state governments, and other key stakeholders (advocates, researchers, disability service providers, employment networks, and foundations) to develop and coordinate the implementation of a comprehensive, longitudinal research, systems-change, and policy reform initiative designed to increase the number of SSI/SSDI beneficiaries that become optimally employed in CIE while simultaneously maintaining eligibility for income maintenance and essential health benefits as well as preserving access to LTSS necessary for self-sufficiency, and maximum socioeconomic advancement. The initiative would include the following components:		X													X																							
51	3a. A review of the definition of disability as it affects services across agencies.		X													X																							
51	3b. SSA and its federal partners should develop and institute policy reforms to better clarify, strengthen, and expand work incentives so that SSI/SSDI recipients and other stakeholders can more readily utilize them to promote and support CIE goals. This expansion should also be accompanied by funding to increase the number of benefits counselors and service providers who have benefits counseling certification.		X													X																							
51	3c. With oversight from persons with disabilities and their families to ensure user-friendly language and materials, SSA, in partnership with ED, HHS, and DOL should launch a national education campaign that focuses on distributing informational resources/activities and specific examples of how SSI/SSDI recipients can work and still maintain eligibility for access to cash and health benefits and/or the publicly-financed LTSS necessary to achieving partial independence. Such a campaign should provide information about opening ABLE account to advance CIE and economic self-sufficiency.			X					X							X	X																						
51	3d. Through the development and dissemination of technical assistance, SSA and its federal partners should improve and sustain the capacity of localities, states, and employment networks to bring to scale effective practices (peer mentoring career coaching, apprenticeship, professional development opportunities, financial planning, self-determination, self-advocacy, resource leveraging and systems navigation support). These practices assist SSI/SSDI recipients in seeking optimal employment while		X													X																							

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	simultaneously preserving access to any needed ongoing public benefits and LTSS necessary to move toward partial or full self-sufficiency.																																						
52	3e. SSA and its federal partners should review the results of providing technical assistance to determine if effective support practices, including financial education and coaching, can divert working age people with disabilities from needing long-term access to SSI/SSDI.		X													X																							
52	3f. Congress should direct the Social Security Advisory Board [42 U.S.C. § 903] to review the requirements for SSA eligibility, including the definition of disability; recommend changes to align with the expectations in the Workforce Innovation and Opportunity Act (WIOA); and remove unnecessary barriers. The Social Security Advisory Board should then report to Congress on the recommended statutory changes needed to ensure that individuals with disabilities continue to have access to supplemental income but are encouraged and incentivized to maximize their productivity and self-sufficiency with the goal being to reduce overall reliance on SSI or SSDI.	X														X																							
52	3g. Through additional research, SSA and its federal partners should develop additional recommendations on establishing incentives that offset the cash security value of SSDI or SSI. Examples of potential incentive strategies include but are not limited to an enhanced earned income tax credit, a guaranteed on-ramp to cash benefits as needed for eligible beneficiaries, or the establishment of a guaranteed benchmark to ensure ongoing access to health care coverage and LTSS.		X													X																							

## Chapter Six: Increasing Competitive Integrated Employment in the AbilityOne® Program

Page No.	Recommendation Number and Description	Congress	All Federal Agencies	DOL	Secretary of Labor	DOL-ETA	DOL-ODEP	DOL-WHD	ED	ED-RSA	ED-OCTAE	ED-OSEP	DOT	Secretary of Transportation	HUD	SSA	HHS	HHS-ACL	HHS-CMS	HHS-SAMHSA	DOJ	FDIC	IRS	Treasury	NIDILRR	Mental	State Medicaid	SEA	LEA	AbilityOne®-Com	AbilityOne®-NPA	AbilityOne®-CNA	SVRA	SIDD	State Labor	IDEA		
57	1 Congress should amend JWOD to fully align the Act with modern federal disability law and policy goals, including the Americans with Disabilities Act, the Supreme Court’s Olmstead decision, and WIOA. This amendment should include provisions requiring that CIE be a goal of participation in the AbilityOne® Program. Key features of an amended JWOD Act should include:	X																																				
58	1a. New criteria and processes for procurement selection that consider the following:																																					
58	1ai. The process for selecting the NPA for a contract should be outside of the purview of the Central Nonprofit Agencies (CNAs), i.e., National Industries for the Blind (NIB) and Source America. Additionally, the role and function of the Commission and the CNAs should reflect revisions to the procurement selection processes and to ensure the avoidance of any conflict of interest.																																					
58	1aii. A selection process that allows at least two qualified vendors to be referred to the Commission for each contract in order to enable greater opportunity, transparency, and competition for contracts. Contracts should also be re-competed at prescribed intervals.																																					
58	1aiii. Expand opportunities for contractor selection to nonprofit organizations not associated with NIB or SourceAmerica, as well as for-profit companies. An independent study, per Recommendation Number 3 below, should evaluate this and other potential vendor selection criteria, including vendor preferences that might be given to small businesses owned by individuals with disabilities.																																					
58	1aiv. A selection process that awards additional preference to vendors who can document they have assisted AbilityOne employees’ transition into CIE.																																					
58	1av. The Inspector General staff located at AbilityOne provides oversight and should be involved in the development of a new selection criteria and process.																																					
58	1avi. The composition of the AbilityOne Commission should reflect the diversity of its constituents: At least 50 percent of its members should be individuals with disabilities and experts in disability employment policy and workforce development for people who are blind or have significant disabilities.																																					
58	1b. In conjunction with the independent research under Recommendation Number 2 below, the current requirement that 75 percent of the contract hours under AbilityOne be completed by individuals who are blind or have significant disabilities should be considered, and the following be taken into account:																																					
58	1bi. The feasibility of measuring the 75 percent ratio or any similar ratio including recommendations for other program participation thresholds or eligibility criteria.																																					
58	1bii. Changing the ratio of individuals who are blind or have a significant disability to non-disabled individuals working on contracts to avoid congregation of people with disabilities in the workplace and to meet the goal of CIE without reducing the number of jobs available to people with disabilities.																																					

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59	1biii. Introducing pilot projects that substantially reduce the contract hour percentage as well as authorizing NPAs to increase the percentage of work that may be subcontracted to for-profit companies where there is an obligation for subcontractors to hire AbilityOne participants. New pilots should also test the awarding of AbilityOne contracts from federal customers to private industries who would be allowed to meet the minimum work hour requirements with CIE opportunities elsewhere in their business outside the contract. All pilots should be subject to independent evaluation to inform future decisions about contract hour requirements.																												X															
59	1biv. Any changes in contract hour percentages or the ratio of workers with disabilities working on AbilityOne contracts or other recommendations for establishing new program participation criteria or measures should be planned in a manner to mitigate unintended harm to current AbilityOne workers -- where career interests and skills are assessed, additional training is provided, opportunities are provided for some employees to experience CIE prior to placement, and employees are updated on their employment options and support services available to them.																													X														
59	1c. Consistent with the intent of the March 2016 AbilityOne Declaration, immediately eliminate the use of the FLSA Section 14(c) certificates for all contractors providing products or services to Federal customers under the AbilityOne Program in order to ensure that all employees receive at least the greater of the federal minimum wage, the state minimum wage or the prevailing wage and receive the benefit of relevant labor law coverage, including the National Labor Relations Act and the full scope of FLSA protections.																												X															
59	1d. Based on the above mentioned reforms, establish new criteria for who is eligible to work on AbilityOne contracts that reflect the following principles:																													X														
59	1di. All individuals with disabilities are presumed employable. Participating in AbilityOne should not be predicated on the belief that employment is not possible for certain individuals except through congregate work conditions and “set aside” federal contracts.																													X														
59	1dii. Eligibility for AbilityOne, that is, the documentation of a significant disability, should be determined independently and not by the NPAs who compete for the federal contracts. Criteria could include, for example: receipt of public disability benefits that require the identification of a significant disability such as SSI/SSDI; receipt of employment services through a state vocational rehabilitation (VR), Intellectual/Developmental Disabilities (I/DD), or Mental Health (MH) agency; and/or through designation by the Veterans Administration of a significant disability. A working group, per Recommendation Number 3 below, should evaluate these and other potential eligibility criteria, particularly in light of any reforms to the program.																													X														
60	2 Congress should direct and facilitate, through any necessary funding, research on current use of AbilityOne in order to identify:	X																																										
60	2a. The extent to which the program is currently servicing the intended, targeted population of individuals who are blind or have significant disabilities and recommendations to increase participation of this population if necessary.																													X														
60	2b. Methods to ensure compliance with any current or newly-established participation threshold in Recommendation 1.c. above, including sources of available data at the state and/or federal																												X															

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	level and the feasibility of establishing an internal AbilityOne data-driven or other tracking/verification process.																																					
60	2c. The extent to which the continued separation between the target populations of individuals who are blind and individuals who have significant disabilities is consistent with modern disability policy, and recommendations to unify the two target populations into a single eligibility category, should Congress determine this is more consistent with current disability policy goals.																																					
60	2d. Resources of available data at the state and federal level to determine AbilityOne's compliance to established hiring thresholds. Congress should direct the state and/or local entities possessing this data to share it with AbilityOne for these purposes. Where necessary, these agencies should amend or modify their internal rules for data sharing for this specific purpose, as long as the data transfer is compliant with established state and/or federal disclosure laws.	X																																				
60	3 Congress should authorize an independent third-party evaluation tasked with studying the implementation of the recommendations as submitted herein, and submit a report that identifies and recommends additional policies that may be required to implement the changes necessary to reform the JWOD Act as indicated above. This evaluation should be informed by research, completed within a required frame, and should solicit input from various AbilityOne stakeholders and knowledgeable experts such as:	X																																				
60	3a. Individuals who are current or potential employees under the AbilityOne Program	X																																				
60	3b. Advocates for these individuals	X																																				
60	3c. Subject matter experts on CIE	X																																				
60	3d. Government and private sector economists	X																																				
61	3e. Representatives from relevant federal agencies	X																																				
61	3f. Current or potential AbilityOne vendors	X																																				
61	3g. Representatives with in-depth knowledge of the AbilityOne Program	X																																				
61	3h. Policy experts on federal policy, including the ADA, Olmstead, and WIOA	X																																				