



November 21, 2019

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

Dear Acting Assistant Secretary Schultz,

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

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

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

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

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

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

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

---

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

<sup>2</sup> National Council on Disabilities, “From the New Deal to the Real Deal: Joining the Industries of the Future,” (Oct. 2018), available at [https://www.ncd.gov/sites/default/files/New%20Deal%20to%20Real%20Deal%20FINAL\\_508.PDF](https://www.ncd.gov/sites/default/files/New%20Deal%20to%20Real%20Deal%20FINAL_508.PDF).

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

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

Respectfully,

**National Organizations:**

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

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

**State and Local Organizations:**

**Alabama:**

Alabama Disabilities Advocacy Program

**Alaska:**

Southeast Alaska Independent Living, Inc. (SAIL)

**Arizona:**

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

**Arkansas:**

Disability Rights Arkansas, Inc.

**California:**

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

**Colorado:**

Atlantis Community, Inc.

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

**Connecticut:**

Connecticut APSE  
Disability Rights Connecticut  
Down Syndrome Association of Connecticut

**Delaware:**

Disabilities Law Program, CLASI  
Down Syndrome Association of Delaware

**Florida:**

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

**Georgia:**

Georgia Advocacy Office  
Georgia APSE  
Georgia Council on Developmental Disabilities

**Hawaii:**

Access to Independence Hawaii Branch

**Idaho:**

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

**Illinois:**

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

**Indiana:**

Down Syndrome Indiana, Inc.  
Indiana APSE  
Indiana Disability Rights

**Iowa:**

Disability Rights Iowa  
Iowa APSE  
New Hope

**Kansas:**

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

**Kentucky:**

Kentucky APSE

**Louisiana:**

Louisiana Association for Persons Supporting Employment First

**Maine:**

KFI  
Maine APSE  
Syntro Inc.

**Maryland:**

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

**Massachusetts:**

Disability Law Center  
Independence Associates, Inc.  
Massachusetts APSE

**Michigan:**

Michigan Protection & Advocacy Service, Inc.

**Minnesota:**

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

**Mississippi:**

Association of People Supporting Employment First

## Disability Rights Mississippi

### **Missouri:**

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

### **Montana:**

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

### **Nebraska:**

Disability Rights Nebraska  
Down Syndrome Alliance of the Midlands  
Independence Rising

### **Nevada:**

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

### **New Hampshire:**

Disability Rights New Hampshire  
TASH New England

### **New Jersey:**

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

### **New Mexico:**

Disability Rights New Mexico  
Native American Disability Law Center

### **New York:**

Access To Independence of Cortland County, Inc.

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

**North Carolina:**

North Carolina APSE  
Disability Rights North Carolina

**North Dakota:**

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

**Ohio:**

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

**Oklahoma:**

Dynamic Independence

**Oregon:**

Disability Rights Oregon  
Oregon APSE

**Pennsylvania:**

PA APSE  
Transition Consults

**South Carolina:**

AccessAbility  
Family Connection of South Carolina  
Protection and Advocacy  
SCAPSE

**South Dakota**

Disability Rights South Dakota

**Tennessee:**

Disability Rights Tennessee  
Down Syndrome Association of Middle Tennessee  
Empower Tennessee



Tennessee Council on Developmental Disabilities

**Texas:**

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

**Utah:**

Disability Law Center

**Vermont:**

Vermont APSE  
Vermont Developmental Disabilities Council

**Virginia:**

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

**Washington:**

Community Employment Alliance  
Disability Rights Washington  
Total Living Concept  
Washington APSE

**West Virginia:**

West Virginia Developmental Disabilities Council

**Wisconsin:**

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

**Wyoming**

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

**U.S. Virgin Islands:**

Disability Rights Center of the Virgin Islands

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