



CPSD
Real lives. Real work.

Collaboration
to Promote
Self-Determination

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Response to the WIOA Advisory Committee Report

Our Mission and Values

The Collaboration to Promote Self-Determination, Inc. (CPSD) was formed in 2007 to advocate for comprehensive, cross-agency modernization of federal disability policy in order to:

- 1) empower citizens with disabilities to become self-sufficient, productive members of society through employment in jobs and environments that are typical in our society;
- 2) ensure that every adult living with complex intellectual, developmental and cognitive disabilities has the opportunity, encouragement, and support required to lead an independent, productive life through self-direction and self-determination;
- 3) promote opportunities and to work to eliminate barriers to working and saving while ensuring the continuation of individuals supports (as necessary); and,
- 4) educate the public regarding the ability of citizens with significant disabilities to live meaningful lives while working and living independently.

Overview

The Workforce Innovation and Opportunity Act (WIOA) of 2014 called for creation of an Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities under Section 609 of the Rehabilitation Act of 1973 as amended by Section 461 of WIOA. The Committee's Charter was to:

- Identify 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); and,

- Examine 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 (WIOA Report, 2016, p. 1).

The Advisory Committee issued its final report on September 15, 2016. CPSD wishes to acknowledge the hard work of the Advisory Committee and commend them for the comprehensive scope of their findings and recommendations. The Advisory Committee's recommendations are organized around six key themes that identify specific areas of capacity building needed to increase Competitive Integrated Employment (CIE) by Congress as well as Federal Agencies in collaboration with the states, local governmental agencies, the private sector, individuals with disabilities, families, and other stakeholders.

The breadth and depth of the recommendations will require much effort on the part of all stakeholders to assure that they are carried out. CPSD recognizes that such an effort will be a multi-year strategic endeavor. To begin the dialogue about how best to proceed in gaining support for the WIOA Advisory Committee's recommendations, CPSD offers this initial summary and response to the WIOA Report for its members' consideration.

WIOA Report Key Themes Aligned with CPSD Mission and Values

CPSD emphasizes these Advisory Committee main themes as critical areas of focus for implementation:

I. Commit to a Universal Definition of Competitive Integrated Employment:

The Workforce Innovation and Opportunity Act defines Competitive Integrated Employment (CIE) 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. (WIOA Report, 2016, p. 1)

II. Recognize Poverty as the Critical Social Problem the Advisory Report's Recommendations are Intended to Solve

The WIOA report noted several key facts regarding the degree to which individuals with significant disabilities experience poverty due to the lack of CIE opportunities:

- Individuals with I/DD as a group have the lowest employment participation rates compared to other disabilities and the employment participation rates of individuals with other significant disabilities are 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 and are the largest and fastest growing group of public disability income beneficiaries.
- 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).
- Another backdrop to the Committee's work is the evolving federal disability employment policy that 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. (WIOA Report, 2016, p. 6)

CPSD believes that the conditions, policies and practices that have contributed and perpetuated such poverty must be addressed so that future generations of individuals with disabilities will have fuller lives through access to competitive, integrated employment.

III. All Stakeholders, Particularly Congress and Federal Agencies, Must Expect and Pay for Different Outcomes

The WIOA report noted multiple examples of how existing statutes, rules, regulations and administrative practices have contributed to individuals with significant disabilities lack of access to CIE. The WIOA Report recommendations that CPSD feels most critical to promoting full access

to CIE include those that *expect and pay for different employment outcomes*. These recommendations focus on:

1. Modernization and Alignment Across Systems
2. Provide Different Incentives and Payment Structures
3. Capacity Building Through Strategic Planning, Implementation, and Evaluation
4. Hold Agencies Accountable for to-be-established benchmarks for increasing CIE
5. Eliminate Conflicts of Interest

IV. Focus All Public Resources Toward the Realization of Real Pay and Real Jobs That Lead to Careers

The second component of the Advisory Committee's charter was to examine the use of the certificate program carried out under Section 14(c) of the Fair Labor Standards Act (FLSA) that provides for the payment of subminimum wages. The key recommendation made by the Advisory Committee was, *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. (p. 107)*

CPSD further believes that implementing WIOA Report recommendations regarding *real pay and real jobs* are critical to ensuring that youth with disabilities have immediate access to CIE. These WIOA Report recommendations are those that:

1. Eliminate Sheltered Workshops as an IEP Outcome
2. Provide for Paid Work Experience Prior to Graduation

CPSD Response and Calls for Action

CPSD believes that the fully realized implementation of the WIOA Advisory Committee Report recommendations will result in a dramatically different system of CIE employment supports from what is available today. It recognizes that such a system will necessitate time and the full participation of all key stakeholders to effect change. In order to ensure on-going,

continued commitment to this expansive degree of systemic reform, CPSD calls for the on-going accountability of those most responsible by:

1. Requiring an Annual Report to Congress on the status and progress of implementing the WIOA Advisory Committee's Recommendations; and,
2. Requiring the involvement of the Office of Management and Budget in the shift to paying for different outcomes through system modernization and alignment

To begin the more immediate implementation of the WIOA Report Recommendations, CPSD calls for:

1. An Interagency Task Force be established, to include the Office of Management and Budget

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. (p. 19)

2. Congress to pass legislation for multi-year phase out of FLSA Section 14 c subminimum wage provision

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. (p. 107)

3. The Creation of a third party evaluation of Source America and increased data reporting of Ability One

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. (p. 60)

4. An analysis in detail of the requisite alignment of Federal Systems

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. (p. 23)

5. An OMB review and analysis and recommendations for improved interaction of the benefits system with employment outcomes

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