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Collaboration  
to Promote  
Self-Determination

**Testimony to the Advisory Committee on Increasing Competitive Integrated Employment for  
Individuals with Disabilities (ACICIEID) on the ACICIEID Draft Interim Report  
October 2, 2015**

The Collaboration to Promote Self-Determination (CPSD) is an advocacy network of fifteen national disability organizations who have come together to bring about a significant modernization of the federal adult system of services and supports for persons with disabilities, particularly those with intellectual and developmental disabilities. The CPSD promotes major systemic reform of our nation's disability laws and programs to ensure that persons with disabilities achieve employment, independent living, and have the opportunity to improve their quality of life through self-direction and self-determination. Thus, the work of ACICIEID to identify ways to advance competitive integrated employment is of vital interest to our collective work.

We believe there is a need for a clear focus in federal and state policy leadership that affirms high expectations of citizens with significant disabilities to live and work independently in typical community settings. This focus includes an emphasis on public resources that center on assisting individuals with disabilities in attaining meaningful employment in integrated settings at competitive wages with commensurate benefits. Employment is a means to economic advancement of these citizens through income generation, asset building, and savings. Thus, the CPSD seeks to promote opportunities and eliminate barriers to working and saving while ensuring the continuation of individualized supports as necessary.

The CPSD would like to compliment ACICIEID on its initial work to compile its Draft Interim Report. The comprehensive nature of the Report offers many important perspectives and recommendations to increase competitive integrated employment for individuals with significant disabilities. The CPSD is particularly interested in the Report's recommendations that relate to the use of subminimum wage, also referred to as 14(c) wages after the applicable section of the Fair Labor Standards Act. We firmly support the elimination of 14(c) wages as one important step toward increasing competitive integrated employment.

Of the twenty one recommendations in the Report concerning 14(c), the CPSD would like to comment on five. They are quoted below, along with rationale for our support.

ACICIEID recommendation # 2:

*"The Individuals with Disabilities Education Act (IDEA) Indicator 13 must disallow a placement in subminimum wage Section 14(c) employment as an acceptable post-school transition goal or transition service on the transition plan."*

We strongly support this recommendation and would add the following three issues which we believe are pertinent to the CPSD and its goals. First, Workforce Investment Opportunity Act (WIOA) makes it difficult for schools to refer youth to programs that offer subminimum wage, but it does not eliminate referral to these programs. There are restrictions to effect subminimum wage employment, but there are

no absolute prohibitions. Second, in the IDEA there are no specifically stated prohibitions to involving youth in services and programs that pay subminimum wage. And third, there is no prohibition to identifying and placing youth into subminimum wage employment as an acceptable post-school goal. The CPSD supports the intent of this recommendation and the accompanying advocacy to disallow placement in 14(c) employment in subsequent re-authorization of IDEA.

Furthermore, in CPSD's work, we will strive to assure that the next reauthorization of IDEA will:

1. Re-establish the age of transition to no later than when a youth turns 14.
2. Require early connection to and participation in VR services at the earliest stage of transition as coordinated in a youth's IEP.
3. Further define a Summary of Performance [as required in current law] to include a record of a youth's integrated work experiences. Also, require that the IEP include a description of the integrated work experiences that will be provided to assist the youth in reaching postsecondary goals.

ACICIEID recommendation # 9:

*“The Secretary of Labor, in consultation with the Rehabilitation Services Administration (RSA) and the Centers for Medicare and Medicaid Services (CMS) should propose a time frame for phasing out the Section 14(c) certificate program.”*

As the Report states, almost all (95%) of all workers with disabilities being paid subminimum wage are employed by sheltered workshops. Sheltered workshops do not help people move into competitive jobs. A substantial majority of individuals served by CMS funded programs are served in sheltered workshops. The CPSD recognizes that it will take time and careful planning including determining the role of State Vocational Rehabilitation agencies in effecting change, to dismantle this type of service so that inadvertent hardship is not created for individuals currently served by these programs. We strongly support the elimination of 14(c) under conditions of a carefully planned phase out over 10 years.

ACICIEID recommendation # 10:

*“Congress should amend Section 14(c) of the FSLA to allow for the implementation of a well-designed phase-out of the Section 14(c) program that results in people with disabilities entering competitive integrated employment (CIE).”*

The CPSD sees the rationale for this recommendation is much the same as that for the previous recommendation. Payment of subminimum wages is counter to what we now know about how to successfully facilitate competitive, integrated employment for individuals with significant disabilities. The presumption of employability holds that above minimum wage employment, where the wage is directly paid by the employer, is not only possible but necessary to increase economic self-sufficiency. We recommend that the phase-out of Section 14(c) should also be accompanied by mandated concomitant services that provide competitive integrated employment as an alternative to sheltered workshops.

ACICIEID recommendations # 16:

*“In enforcing the ADA and Olmstead DOJ and HHS’ OCR should provide technical assistance to states that are engaging in affirmative Olmstead planning to increase opportunities for CIE and reduce the need for enforcement.”*

ACICIEID recommendations # 18:

*“In their efforts to enforce the HCBS Settings Rule, CMS should offer technical assistance resources and funding to states that want to use it as an opportunity to move toward CIE options for people receiving HCBS services in sheltered workshops.”*

Although these are two separate recommendations in the ACICIEID Draft Interim Report, they speak to the same need for service providers to re-tool their operations so that they can effectively offer competitive, integrated employment services. The CPSD recognizes that the ability of individuals with significant disabilities to achieve full employment will depend on the competency of service providers to help them achieve it. The current level of service provider competence *is not adequate* to implement competitive integrated employment services on a broader scale.

The CPSD would also like to comment on the report in a larger, holistic sense. Many of the recommendations made in the Interim Report regarding 14c and numerous other topics related to fostering and growing CIE necessarily involve more than one agency. Indeed, multi-agency collaboration is often mentioned and is critically important to the modernization of programs for persons with disabilities. In that vein, the CPSD would like to respectfully suggest that an agency with significant management responsibilities across the federal government be identified to lead in developing a comprehensive strategy to implement the detailed and painstaking collaboration efforts enumerated in the recommendations of the Interim Report. We strongly recommend placing the Office of Management and Budget in this role and believe this is essential to the success of a modernization effort in the future.

To conclude, the CPSD fully supports recommendations that lead to discontinuing the use of 14(c). It also supports a well-planned phase out and concomitant capacity building of employment service providers so as to elevate their competence in facilitating competitive, integrated employment for individuals with significant disabilities.

Thank you for the opportunity to provide these comments.

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