

# Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (ACICIEID)

Minutes from Sixth Meeting  
October 14-15, 2015

The sixth meeting of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (“ACICIEID” or “the Committee”) was called to order by Committee Chairman David Mank at 8:36 a.m. on Wednesday, October 15, 2015.

The meeting took place at the United States Access Board, 1331 F St N.W., Suite 900, Washington, DC 20004-1111.

The following members were present:

#### Self-advocates for individuals with intellectual or developmental disabilities:

- Patrick Hendry, Mental Health America (by phone)
- Karen McCulloh, McCulloh and Associates
- Santa Perez, People First of Nevada

#### Providers of employment services, including those who employ individuals with intellectual or developmental disabilities in competitive integrated employment:

- Brian Itzkowitz, Goodwill Industries of Arkansas Inc.
- Christine McMahon, Fedcap

#### Representatives of national disability advocacy organizations for adults with intellectual or developmental disabilities:

- Ruby Moore, National Disability Rights Network
- Ari Ne’eman, Autistic Self Advocacy Network
- Alison Barkoff, the Bazelon Center

#### Experts with a background in academia or research and expertise in employment and wage policy issues for individuals with intellectual or developmental disabilities:

- Valerie Brooke, Virginia Commonwealth University
- David Mank, Indiana Institute on Disability

#### Community representatives from the employer community or national employer organizations:

- Oswald (Oz) Mondejar, Partners Continuing Care
- Chris Averill (Proxy for Jim Brett), The New England Council

Other individuals or representatives of organizations with expertise on increasing opportunities for competitive integrated employment for individuals with disabilities:

- Cesilee Coulson, Washington Initiative for Supported Employment
- Sharyn Hancock, Workforce Essentials, Inc.
- Rita Landgraf, Delaware State Department of Health and Social Services (by Phone on October 15th)
- Lisa Pugh, Disability Rights Wisconsin
- Fredric Schroeder, Interwork Institute at San Diego State University

In addition, the following Federal officials were present:

- Jennifer Sheehy, Acting Assistant Secretary of the Office of Disability Employment Policy at the U.S. Department of Labor
- Portia Wu, Assistant Secretary of the Employment and Training Administration at the U.S. Department of Labor
- David Weil, Administrator of the Wage and Hour Division at the U.S. Department of Labor
- Mike Smith (Proxy for John O'Brien, Director of the Centers for Medicare and Medicaid Services)
- Helen Applewhaite, Wage and Hour Division at the U.S. Department of Labor (participated for a portion of the meeting when David Weil was not available.)
- Sharon Lewis, Principal Deputy Administrator, Administration on Community Living (Commissioner of the U.S. Health and Human Services/Administration on Intellectual and Developmental Disabilities' designee for October 15th)
- Janet LaBreck, Commissioner of the Rehabilitation Services Administration at the U.S. Department of Education

### Introductory Remarks/Administrative Updates

At 8:36 a.m. Committee Chairman David Mank called the meeting to order by reviewing the day's agenda and recalling that public testimony would be provided in the afternoon. Then, Chairman Mank facilitated self-introductions by the members present and noted that Patrick Hendry would join by conference line.

Chairman Mank reminded the Committee of several key recent events that he stated would impact the work of the Committee in shaping the final recommendations. In particular, Dr. Mank mentioned the Lane v. Brown case from Oregon, CNN's investigation into AbilityOne, proposed legislation regarding the Phase out of 14 (c) certificates, and CMS Notice of performance based payment options for employment.

He further stressed the need to prioritize recommendations and urged the Committee to focus on those recommendations that would have the potential for the greatest impact based on the Committee's charge. Chairman Mank reviewed the timeline for the Final Report which included continuing subcommittee work, the full virtual Advisory Committee meeting in January 27-28,

2016, the full in-person Advisory Committee meeting April 27-28, 2016, and the submission of the final report on September 15, 2016 to the Secretary of Labor and Congress.

### **Report Out on Recent Work and Focus for Final Report — Transition Subcommittee**

At 8:45, Lisa Pugh and Vicki Brooke provided the Transition to Careers subcommittee report out and summarized their priority recommendations. Ms. Pugh explained how their subcommittee completed a survey to develop priority recommendations. She also mentioned that they were working on developing more specifics and actionable items in areas such as family engagement.

Ms. Brooke noted the need for higher quality research as they make more specific recommendations and move from promising practices to evidence based practices. Then, Ms. Brooke discussed the formation of an ad hoc group with the Complexity subcommittee around supplementary wrap-around supports.

Karen McCulloh asked whether the Transition subcommittee will shape any recommendations around removing barriers for youth to enter community colleges. Ms. Brooke acknowledged that they have discussed this issue and plan to include a recommendation around it. Cesilee Coulson suggested they flesh out more details around family engagement piece, especially with regards to early intervention strategies. Sharon Hancock suggested the need to become more familiar with the AJC system including the services and programs that are currently available to youth.

Subcommittee report out presentations may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151013-SUBCOMMITTEEREPORTOUTS.pdf>

### **Full committee discussion on use and oversight of 14(c) with Dr. David Weil**

At 9:15, Chairman Mank reminded the Committee of their three part charge, including increasing competitive integrated (CIE) employment and advising on the use and oversight of 14 (c) certificates before introducing Dr. David Weil of the Wage and hour division at the Department of Labor.

Dr. Weil started the discussion around the use and oversight of 14 (c) by reviewing the Wage and Hour Division's role and responsibilities, strategic enforcement approach, mission, and related themes from the interim report. He also reminded the Committee that FACA rules limit Wage and Hour Division's (WHD) involvement in the process to protect the work of the Committee. Dr. Weil recalled the tension that exists around the Committee's recommendations on 14 (c) certificates – namely the belief by some that the program impedes competitive integrated employment and fear that phasing out the program would result in the loss of valuable work for others currently in sheltered workshops by others.

Dr. Weil noted that Wage and Hour has an enormous mandate as an enforcement agency for the 14 (c) program but the narrow enforcement scope as provided for in the law and lack of resources limit their effectiveness in addressing all abuses in the system. Dr. Weil also mentioned that WHD is currently working on becoming more proactive by improving their enforcement policy, improving outreach, and developing stronger partnerships.

Dr. Weil observed that of the recommendation directed at WHD in the Interim Report, three recommendations addressed with the phase-out of 14 (c), four focused on reducing reliance, and five

dealt with improving oversight of the program. He asked the Committee to consider recommendations that address various issues such as ways to prevent 14 (c) certificates from being issued in cases that limit CIE and to consider mechanisms will help people transition from 14 (c) programs to CIE in the case of a phase out.

Bob Williams asked if WHD can consider evidence provided by other entities. Dr. Weil responded that WHD can consider evidence from other parties when granting 14 (c) certificates. Mr. Schroeder and Ms. McCulloh remarked that the program is fundamentally flawed and the Committee should focus on the elimination of 14 (c) certificates. Several members including Ms. Pugh and Christine McMahon noted the importance of having quality data to help inform their recommendations around the program. Rita Landgraf mentioned that states have a lot of relevant data and that more effort should focus on improving data sharing across states. Brian Itzkowitz noted that a phase out approach should be intentional and address concerns expressed in the public comments. Alison Barkoff noted the need for greater Committee discussion with WHD.

Wage and Hour's presentation may be accessed on the meeting agenda webpage at:  
<http://www.dol.gov/odep/pdf/20151014WHD.pdf>

### **Report Out on Recent Work and Focus for Final Report — State and Local Capacity Subcommittee**

After a short break the Committee reconvened and Cesilee Coulson provided the Building State and Local Capacity subcommittee report out and summarized their priority recommendations at 11:27 a.m. Ms. Coulson noted that the subcommittee consolidated the seven recommendations from the Interim Report into three areas: 1. research and development activities; 2. the system of paying for employment services; and 3. data collection, management, and sharing.

Chairman Mank asked Ms. Coulson to elaborate on Recommendation 1 and the need for professional development on increasing CIE. Ms. Coulson mentioned that the first recommendation would focus on the 'build' for the current system but also for the next generation of services. Ms. Pugh asked a clarifying question regarding changing the state matching rate as VR and whether 80/20 was possible. Ms. Coulson responded that her subcommittee was still discussing the scope and scale of the recommendation. Ms. Hancock noted that their subcommittee should also consider ways AJC's do business while developing a recommendation around building that capacity.

Subcommittee report out presentations may be accessed on the meeting agenda webpage at  
<http://www.dol.gov/odep/pdf/20151013-SUBCOMMITTEEREPORTOUTS.pdf>

### **Report Out on Recent Work and Focus for Final Report — Marketplace Subcommittee**

At 11:32 a.m., Ms. McCulloh provided the Marketplace dynamics subcommittee report out and overview of high priority recommendations which are based on 6 topic areas: OFFCP, Tax Incentives, American Job Centers (AJCs) and Workforce Developmental Boards (WDBs), High Growth Industry Healthcare, Training & Pipeline Issues, and Transportation.

Oswald Mondejar stressed the importance of using the language of business and the critical need to have more account managers that are VR professionals. Ms. Landgraf noted the crossover between Marketplace Dynamics and Transition to Careers subcommittees in regards to high growth industries such as healthcare. Ms. Coulson recommended the subcommittee consider the work done with employer focus groups by ODEP.

Subcommittee report out presentations may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151013-SUBCOMMITTEEREPORTOUTS.pdf>

## Lunch

The Committee broke for lunch at 12:08 p.m.

## Public Testimony

After a lunch break at 1:00 p.m., Committee members reconvened and Chairman Mank introduced the individuals who submitted testimony to the ACICIEID Advisory Committee. They were allowed 7 minutes to provide their testimony.

The full committee listened to public testimony which can be accessed at <http://www.dol.gov/odep/topics/date/20151015.htm>

## Additional Discussion

With the remaining time, the Committee has the opportunity to discuss issues raised during the meeting. Ms. Barkoff asked Helen Applewhaite to explain the process on issuing 14 (c) certificates and whether a mechanism or process exists in which an employer must prove a certificate does not impede CIE. Mr. Williams suggested that states could help weigh in on process of issuing certificates. Ms. McCulloh raised concerns of health and safety of people working in sheltered workshops and the need for interagency partnerships to share information. Ari Ne'eman noted a fundamental conflict of interest with the system since employees have an incentive to retain the most productive employees rather than transition them into competitive integrated employment.

## ACCSES Panel — Parents and Individuals with Disabilities Working in Center-Based Workshops

After a short break at 3:01 p.m., Chairman Mank introduced the next panel which included Leann Fox, Delia Paranos, Ted Knuck, Alan Gill, and Karl Gill.

Ms. Fox began by noting the difficulty in making recommendations without having available data. She remarked that ending the 14 (c) program would have disastrous results. Alan Gill talked about unemployment rates in Washington State among people with disabilities and how closing sheltered workshops negatively affected people that work in them. He also talked about his brother's positive experience at Goodwill industries in St. Louis which Karl Gill elaborated upon. Next, Mr. Knuck told the Committee about his daughter's positive experience working at a sheltered workshop. Finally, Ms. Paranos noted the importance of continuing the 14 (c) program.

Chairman Mank recalled how the Committee's work has focused on building capacity and increasing competitive integrated employment – not closing sheltered workshops.

### **Report Out on Recent Work and Focus on Final Report — Complexity Subcommittee**

At 4:15 p.m., Ms. Barkoff provided the Complexity subcommittee report out and summarized their priority recommendations. Key topics area in their recommendations included: funding, benefits planning, 14 (c) certificates, AbilityOne, and Wraparound supports. Mr. Barkoff noted that they created small workgroups with members from different subcommittees for areas of overlap.

Mr. Ne'eman and Mr. Williams reiterated the importance of the wraparound supports recommendation and making available viable integrated day services. In regards to the 14 (c) recommendation, Portia Wu mentioned how it has been misunderstood by the public and some organizations to mean the elimination of the program without a structure in place, and that such a conclusion is not an accurate representation of the committee's work.

Subcommittee report out presentations may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151013-SUBCOMMITTEEREPORTOUTS.pdf>

### **Chair Wrap-up**

At 4:45 p.m., Chairman Mank thanked the Committee and members of the public for their participation in the meeting. He reminded the Committee that tomorrow's meeting would began at 8:00 a.m. at the same location (the United States Access Board).

**Day Two: Thursday, October 15, 2015**

### **Welcome/Roll-Call/Administrative Matters**

At 8:15, Chairman Mank called the meeting to order and provided an overview of the day's agenda before turning over to the full Committee discussion on next steps for final report.

### **Full Committee Discussion on Next Steps for Final Report — Facilitated by Dr. Mank**

Chairman Mank asked Committee members to discuss takeaways from yesterday's meeting. Ms. Brooke noted the impactful presentation during the ACCSES panel and asked members to be mindful of their interests, concerns, and fears. Ms. Moore remarked on the importance of addressing the fears and practical issues raised during the ACCSES panel but that the Committee should not let fear drive policies.

Ms. Wu asked the Committee to consider WHD's presentation and develop specific recommendations that improves CIE in the existing regulatory environment. Ms. Coulson recalled the importance of finding relevant data to help inform their recommendations. Santa Perez and Mr. Schroeder talked about low expectations in system for people with disabilities.

### **AbilityOne/SourceAmerica/National Industries for the Blind Panel**

At 9:24 a.m., Chairman Mank introduced the panelists, Tina Ballard and Kim Zeich from AbilityOne, Alicia Epstein from SourceAmerica, and Angela Hartley from National Industries for the Blind (NIB).

Ms. Ballard from AbilityOne thanked the Chairman for the opportunity to speak to the Advisory Committee and the members for their thoughtful approach to drafting recommendations. Ms. Ballard provided an overview of the AbilityOne program and areas of agreement and differing perspectives between the AbilityOne Commission and the Committee's Interim report.

AbilityOne's Presentation may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151014Ballard.pdf>

Ms. Epstein from SourceAmerica thanked members of the Committee for their work on increasing competitive integrated employment for individuals with disabilities. Then, Ms. Epstein provided an overview of the SourceAmerica network including its mission statement, initiatives aimed at increasing CIE such as Pathways to Careers, and commonalities and areas of disagreement with the Committee's interim report.

Source America's statement may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151014Kelly.pdf>

Ms. Hartley from National Industries for the Blind (NIB) thanked the Committee for the opportunity to provide feedback on Chapter 7 of the Committee's interim report. Ms. Hartley began by reviewing NIB's history, structure, and programs. Then, she noted some areas of agreement and disagreement with the Interim Report's chapter on the AbilityOne program.

National Industries of the Blind's statement may be accessed on the meeting agenda webpage at <http://www.dol.gov/odep/pdf/20151014Hartley.pdf>

The full Committee discussion started off with a question from Mr. Williams to AbilityOne and SourceAmerica about the breakdown of hourly wages, weekly hours worked, and the percent of employees who receive SSI or SSDI. Other members also asked for more data and information related to

wages, productivity, AbilityOne's contract management program, and the role of unions in the program. Ms. Epstein and Ms. Ballard said they would provide all available data to the Committee.

### Full Committee Discussion on Next Steps for Final Report

After a short break, the Committee started a discussion on next steps for the final report at 10:46 a.m. First, Chris Button and Serena Lowe of ODEP provided an overview of the launch of the National Employment First Policy & Data Platform. <http://employmentfirst.leadcenter.org/>. Chairman Mank noted how data, consistent definitions, and alignment across states have been important issues throughout the Committee's discussions.

Then, Chairman Mank provided an overview of public comments received to date. Committee staff circulated a summary of all the comments to all Committee members. He noted that commenters have expressed support for the phase out of the 14 (c) program while a majority expressed concern regarding the Committee's phase out recommendation.

Chairman Mank reminded Committee members that the four subcommittees would convene after lunch to discuss setting priority recommendations ahead of the January 27-28, 2016 meeting.

### Personal Stories — Policy Barriers for Young People with Disabilities

Mr. Williams introduced Ann Wai-Yee Kwong, Angel L. Miles, Andy Arias, Daniel Mellenthin, and Justin Harford who shared their personal stories.

Ann Wai-Yee Kwong recently finished her B.A. at UC-Berkeley and is in the process of starting her Ph.D. in Special Education Policy at UC-Santa Barbara. She discussed the need to dissolve low societal expectations for youth with disabilities and encourage SSI reform.

Angel L. Miles received her B.A. from Pennsylvania State University and is currently completing her Ph.D. at the University of Maryland. Ms. Miles discussed the lack of services and support available to youth with disabilities in a post-secondary environment. She mentioned the need for more seamless coordination of services as well as initiatives for organizations to hire more people with disabilities such as Career Access. <http://www.dol.gov/odep/pdf/20151014CareerACCESS.pdf>

Andy Arias grew up in the foster care system and lacked sufficient guidance and support to pursue employment and a post-secondary education. However, after high school Mr. Arias found two jobs to support himself, the jobs negatively affected his SSI benefits package. He recommended that SSI and Medicaid be reformed to assist young people with disabilities pursue competitive integrated employment.

Daniel Mellenthin suffered a spinal cord injury in 2006, and had difficulty surviving without Medicaid. After receiving his Master's degree and losing his job, he started his own consulting firm because he did not want to be dependent on SSI benefits. However, the reality for many disabled individuals is the difficulty to find work that can sufficiently cover their medical needs.

Justin Harford is a Disability Community Advocate in Northern California and received his B.A. in Latin American History. Mr. Harford has faced several barriers to finding competitive integrated employment including loss of SSI benefits eligibility, unanticipated financial expenses, and lack of information. He stressed the importance of addressing these issues.

After hearing the personal stories shared by the panelists, several Committee members including Ms. Hancock, Ms. McCulloh, and Mr. Schroeder noted the need to develop recommendations which provide sufficient training to VR and school counselors who serve as mentors and address disincentives in the Medicare and Medicaid system.

#### **Break out session for cross-cutting discussion among subcommittees**

From 2:30 to 3:30 p.m. the four subcommittees met to discuss issues raised during the full Committee meeting, priority recommendations, and next steps.

#### **Concluding Remarks**

Chairman Mank thanked the Committee members and public for their engagement in the process. He reminded the Committee of the timeline for the Final Report, including the virtual Committee meeting January 27-28, 2016.

#### **Adjournment**

The meeting was adjourned at 3:45 p.m.

#### **Certification**

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



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ACICIEID Chairman David Mank