

**David Barnwell and Stephen Sachs – representing Winston-Salem Industries for the Blind.**

**We wish to address the following sections with the attached comments. The list below is in priority order so if we are allowed to speak for 5 minutes we would start from the top until our time expired.**

**Section 361.5(c)(9)**

The newly added definition of Competitive Integrated Employment merges together the two previous existing regulatory definitions of Competitive Employment and Integrated Setting. In the WIOA statute, the definition includes advancement as one of the three means to determine such a setting, along with competitive wages and integrated; however, it does not expand beyond mention that a job must include the same opportunities for advancement. It further goes on in the explanation for the definition that integration focuses on the work unit, wherein even if someone is interacting with non-disabled individuals, such as in a customer service call center setting, integration will still focus on the work unit.

**COMMENT:**

It seems to go against the nature of WIOA to deny individuals opportunity for advancement or hire wages, two of the three identifiers, if a setting is deemed non-integrated. There should be an exception made for determining a work setting if an individual chooses such a setting because the opportunity to receive higher wages and more opportunities for professional growth and advancement will result in greater community integration and upward mobility. ,

**Section 361.5(c)(15)**

In the Employment Outcome definition, RSA removes “Uncompensated outcomes” as noted in its explanation of the revised regulation. This includes “Homemaker” outcomes. While RSA reports that only 0.8% of outcomes utilize this pathway for individuals with disabilities, over 10% of outcomes among individuals served through Designate State Units for the blind will be adversely impacted. This change was not mandated in statute, but rather by the Department’s choosing. If implemented, individuals who are blind would no longer be allowed to choose this as an outcome, which is often chosen by those still working to regain the confidence and skills to become independent before choosing to return to work. RSA gives instructions on how to refer these individuals to other government or community service providers.

**COMMENT:**

There is a clear disproportionate impact that will occur among individuals who are blind, without necessary assurance that critical and unique services will still be available for this group. It is recommended to strike this revision. If not, then further guidance is necessary to assure these individuals will not be shut in and shut out from vital rehabilitation services.

**Section 361.18(c)(1)(ii)**

In the section covering Comprehensive Systems for Personnel Development (CSPD), the standard for qualifications is revised to include work experience, either paid or unpaid, in a series of settings encompassing disability rehabilitation (i.e.: social work, centers for independent living, etc.).

**COMMENT:**

The variety of unique and complex skills necessary to adequately provide services and supports to individuals who are blind (such as braille instruction, assistive technology training, or orientation & mobility) require significant training and certification. Without such high-level skills, individuals who are blind or visually impaired run the risk of being greatly underserved and this could serve as a major impediment to full independence.

For this reason, we recommend adding a new sub-section (c), which states:

(C) A compliment of work experience, in addition to specialized training or certification through either advanced higher education or through a legitimately recognized association that provides specialized training when working specifically with individuals who possess unique barriers to independence and require unique training, such as individuals who are blind.

### **Section 361.48(a)**

In this section, RSA establishes that 15% of funding shall be set aside for Pre-Employment Transition Services (PETS) of youth and students with disabilities. Youth and students with disabilities is defined as being between the ages of 14 – 24 years old. While some states may have 15% of youth and students with blindness currently served through the VR system, the percentage of adults between the ages of 24 – 64 comprises the overwhelming majority of individuals experiencing vision loss who are eligible for employment services and supports. This gap will continue to grow over the next decade, as prevalence continues to increase as the Baby Boomer generation continues to move toward retirement age.

Many visual impairments (such as diabetic retinopathy, glaucoma, and trauma) are more frequent among 40 – 50 year olds. Many of these individuals will not yet qualify for independent living services under the Older Individuals with Blindness (OIB) Program (34 CFR 367). Such a demand could create a scarcity of resources available for individuals who are blind.

#### **COMMENT:**

It is therefore recommended that RSA provide exemptions for this set-aside, or any other population subject to disproportionate prevalence of disability upon older adults still working, when a state's allotment for youth PETS does not reach 15%, and there is a need to serve such individuals who are at risk of losing their job due to the onset of a disability. This could be established in Section 361.37(b) where priority selection is given to individuals at risk of losing employment.

### **Section 363.22**

This section sets aside 50% of allotted supported employment services for youth and students with disabilities.

#### **COMMENT:**

The same concern exists as with the 15% set-aside, where individuals with blindness, due to the extremely high percentage of onset later in life, face a scarcity of resources. Similar exemptions should be made in situations where the allotted 50% is not depleted for a state, and funds could otherwise go toward assisting individuals who require such services to retain employment after developing a disability later in life.

### **Section 363.53(b)(ii)**

This section requires that an individual receiving supported employment services may receive additional short-term services for up to six months. Short term services will then be terminated if an individual is not placed into a competitive integrated setting. Even if an individual is in a competitive setting, but it is not integrated, short-term services will be stopped.

#### **COMMENT:**

Six months is not a sufficient amount of time to secure all the necessary services that an individual who is blind may require, especially if that individual has additional disabilities. As a result, it is recommended to strike "six months" and replace it with "not to exceed 18 months." This will allow for flexibility and additional time to assist in overcoming obstacles and enhancing the odds for job retention.