



June 20, 2011

Senator Tom Harkin
Chair
Senate Committee on
Health, Education, Labor &
Pensions (HELP)
United States Senate
SD-428 Dirksen Senate Office
Building
Washington, DC 20510

Senator Mike Enzi
Ranking Member
Senate Committee on
Health, Education, Labor &
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Senator Patty Murray
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Senate HELP Subcommittee on
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Safety
SD-428 Dirksen Senate Office
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Senator Johnny Isakson
Ranking Member
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SD-428 Dirksen Senate Office
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Dear Senators:

On behalf of the Consortium for Citizens with Disabilities (CCD) Employment and Training Task Force, we are responding to your request for comments on the recently released draft of legislative language for the reauthorization of the Rehabilitation Act, Title V of the Workforce Investment Act.

The State-Federal Public Vocational Rehabilitation (VR) program is the nation's longest serving and largest employment program for people with disabilities. New technology and the aspirations of people with disabilities to higher education have created more opportunities for employment than ever before; however, the VR program is unable to help all who seek these new opportunities because funding for the program hasn't kept pace. According to the Bureau of Labor Statistics only 21.7% percent of all adults with disabilities participated in the labor force compared to 70.5% of people without disabilities.

Recently, injured veterans returning from the conflicts in Iraq and Afghanistan, coupled with veterans of past conflicts with non-service-connected disabilities, have amplified demand for VR services. In addition, the heightened emphasis on youth with disabilities in transition from secondary school to either employment or higher education has further increased the need for services provided by the state vocational rehabilitation system.

A significant increase in funding for the VR state grant program, supported employment, transition services, Projects with Industry and other successful rehabilitation programs are needed to address the urgent employment and rehabilitation needs of individuals with disabilities.

Under the Rehabilitation Act of 1973, As Amended, the Title I State Grants, which provide the significant majority of funding for state VR agencies, receive an annual cost of living adjustment (COLA) based on the Consumer Price Index. Originally intended by Congress to be a "floor" below which the annual COLA increases could not fall, overtime, the COLA has become a ceiling - one that is far too low to meet the rising costs of rehabilitation services.

Another major barrier for individuals with more significant disabilities is their isolation from the workforce. The lack of funding for long-term employment supports prevents many individuals from jobs in the community through supported employment. Currently, funding for supported employment is fragile and fragmented and this is not likely to change without federal guidance and leadership. Major weaknesses center on infrastructure development issues and insufficient funds to ensure successful outcomes for individuals with more significant disabilities.

Because of the short turnaround time, we have broken out our comments in the following manner. Part A of our comments identifies a number of provisions that this Task Force has supported in the past and which are included in the draft legislation. Part B outlines some questions and concerns that arose within the Task Force during our examination of the draft released by the Committee on June 16. Part C is the formal Stakeholder Comment form which contains the specific legislative language recommendations for the Rehabilitation Act approved by this task force in March of last year. We have tried to note those places in the draft bill that appear to reflect our recommendations and appreciate the inclusion of these provisions in the legislative language.

Sincerely,

Alicia Epstein, NISH
Co-Chair

Charlie Harles, INABIR
Co-Chair

Susan Prokop, PVA
Co-Chair

Paul Seifert, CSAVR
Co-Chair

Part A

- P. 48, Sec. 101 State Plans – (11) Cooperation, Collaboration and Coordination – Subsection (J) calls for and assurance that the DSU will coordinate with other state agencies functioning as employment networks under Ticket to Work and Self Sufficiency Program. The Task Force supports this provision.
- P. 57, (20) Information and Referral Services, lines 13 – 35 – this section requires the DSA to make available to Social Security disability beneficiaries information about benefits and assistance under Medicaid and other federally funded programs, information about benefits planning and services of the state protection and advocacy system and general information regarding the Ticket to Work and Self-Sufficiency Program. The Task Force supports this provision.
- P. 63-64, (b) Development of an Individualized Plan for Employment, (2) – this provision requires that similar information as that referenced in (20) above be provided to clients in the development of an IPE. The Task Force supports this provision.

- P. 66-67, (4) Mandatory Components of an IPE, (H) – this provision requires the inclusion of a statement setting out the respective responsibility for service delivery between employment networks and the DSU. The Task Force supports this provision.
- P. 100, Sec. 132, GAO Study on the Interaction with the Ticket to Work and Self-Sufficiency Program. The Task Force appreciates the inclusion of this study.
- Title VIII, Section 801, establishment of the Office of Disability Employment Policy – the task force applauds the committee for inclusion of this title. For many years, we have been concerned that lack of statutory authorization puts ODEP at risk of marginalization should succeeding administrations lack commitment to the employment needs of people with disabilities. We understand there are questions over the placement of this title in the section on the Rehabilitation Act versus placement in the Workforce Investment Act and trust that this can be clarified.
- Section 803, Public Education Campaigns About Hiring Individuals With Disabilities – the task force applauds the committee for inclusion of this section and believes it represents an important step in raising the profile of people with disabilities as an under-valued talent pool among employers and small businesses. The Committee may wish to specifically identify the Small Business Administration in 803(a) among the agencies with which the Assistant Secretary will coordinate.

Part B

Recognizing the many positive aspects of Title V, our task force nevertheless identified a number of sections that caused concern to several of our members or raised questions for which we would appreciate further clarification. A description of these questions and concerns follows below:

P. 11 – (45) Community Rehabilitation Program – the draft appears to be changing the definition of CRP. If the intent of the Committee is to more narrowly define the services provided by CRPs, would that not be more appropriate?

P. 12 – (5) Competitive Integrated Employment – there are multiple questions about the meaning and impact of this section. The requirements appear to make it more difficult for vocational rehabilitation agencies to close a case successfully. Would a teacher who is deaf and seeks employment in a school for students who are deaf be denied services under these requirements? Could the definitions contained in this section preclude self-employment or teleworking? There appears to be regulatory language under 34 CFR 361.5(b)(11) and (33) that offers broader definitions of integrated employment. Why does the Committee not simply codify those regulations?

P. 15 – (17) Independent Living Core Services – The committee is adding considerable new responsibilities -- especially under subsection (E)(iii) -- to Independent Living Centers without any apparent additional resources,

P. 21 – line 25 to page 22 line 16 – Pre-employment Service – There is concern among members of the task force that this terminology will be misused in the same manner that was applied to “pre-vocational services”.

P. 23 – line 24 – What is the intent behind the elimination of “working toward” in the section on supported employment?

P. 26 – line 13 – under Administration of the Act – we would like to see some technical assistance provided to community rehabilitation providers to convert any sheltered workshops they may be operating. This issue may have been addressed later in the Act on P. 121, lines 1 – 4 (G).

P. 35 – line 6 – What is meant by “high quality employment”?

P. 35 – line 38 – The CAP program is currently excluded from cost of living increases provided to state vocational rehabilitation agencies. Since the client assistance program is subject to the same economic pressures and client demands, should it not receive similar treatment?

P. 50-51 – Cooperative Agreement Regarding Individuals Eligible for Home and Community Based Services - lines 42 through p. 51 line 10 – The task force was interested in this provision and the intent behind its inclusion.

P. 97 – line 13 – to P. 98 – line 14 – Provision of Pre-Employment Transition Services for Students with Disabilities – The provision requires 10% of state allotments go to these services. This would equal approximately \$300 million. In 2008, approximately \$500 million was spent on transition age youth. This percentage could result in cuts in services to this population. Would these provisions apply to all children covered by IDEA? If so, \$300 million will not go very far in serving them. Finally, will other people with more significant disabilities be crowded out as an unintended consequence of these provisions?

P. 136 – lines 29 – 31 – This excludes from the innovation grants any organization that does not offer services in integrated, community based settings. Some nationally recognized organizations have among their consortia programs that would not fit this stipulation. Would this exclude such national programs? Could this exclude some innovative – but insufficiently integrated - programs in rural communities that are the sole provider of employment services for people with disabilities?

P. 139 – lines 11 – 15 – The Commissioner’s Scholar Program would provide funds for individuals with significant disabilities to complete postgraduate degrees in law, business or medicine. There are many other professions – such as architecture or engineering – that have an important impact on the lives of people with disabilities and which could benefit from having their insight. Should the scholar program be broadened to cover all professions that affect the lives of people with disabilities?

P. 222 – lines 8 through P. 227 line 20 -- Section 802 – Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities – The task force questions the timing of the creation of this committee. There is a considerable amount of research proposed throughout other sections of the Act. Would it make sense to obtain the results of that research prior to engaging this body? The membership of the committee also appears to be heavily weighted with representation from agencies within Washington DC and in favor of individuals with certain disabilities. A different composition might produce a more comprehensive and thoughtful product.

Stakeholder Comment Form

Senate discussion draft of the Workforce Investment Act of 2011

This form should accompany your organization's comment letter. Please send both documents (as attachments to a single email) to ews@help.senate.gov no later than Friday, June 17th at 8:00pm.

Organization: Consortium for Citizens with Disabilities Employment & Training Task Force

One contact person: Susan Prokop, Associate Advocacy Dir., PVA

Contact email: susanp@pva.org

Contact phone number: 202-416-7707

In order of priority, please provide a full description of each item highlighted in your organization's comment letter, including specific legislative references (e.g., Sec. 111(a)(1)(A)...) and proposed legislative language, if applicable. Use additional pages as necessary.

(See specific legislative recommendations in following pages)

Draft legislative recommendations –new language in *italics*

Expanding supported employment

1. Revise the definition of supported employment services to increase the time limit from up to 18 months to up to 24 months and to add language clarifying that nothing in the Rehabilitation Act shall be interpreted to allow states to establish, by policy or practice, arbitrary or categorical time limits on supported employment services.

We note that the time period has, in fact been extended to 24 months [p. 24, lines 7-13] but suggest the following additional language:

Section 7 Definitions

(39) (B) are *solely* based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment and *cannot be overruled by state policy or practice*.

2. Improve data collection on supported employment programs.

We suggest the following additional language:

Section 101 State Plans

(10)(C) (iii) NEW PROVISION

(III) the number who ended their participation in the program and who were receiving supported employment services and were employed 6 months and 12 months after securing or regaining employment including

(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or another wage level set by the Commissioner, during such employment and

(bb) the number who received employment benefits from an employer during such employment

3. Expand technical assistance given to states on supported employment and to providers on best practices and collect data relating to the existence and effectiveness of supported employment programs as part of RSA annual review and monitoring of VR programs.

We note that language has been added [p. 85, line 19] to include review and monitoring of *provision of supported employment services to individuals* but also suggest the following additional language concerning research to be carried out under this section:

Section 204 (b)(2)(C) new *(vii) research, dissemination and technical assistance on best practices in supported employment and other strategies to promote competitive employment for persons with the most significant disabilities.*

4. We note that the term “certain transitional employment” has been removed from the definition of supported employment on page 23, lines 35 to 37.

5. Develop a grant program to provide states agencies with multi-year funding to implement programs to significantly increase competitive employment outcomes for people with developmental disabilities. Applications must be jointly submitted by the state developmental disability agency and the vocational rehabilitation agency. The grant would require the lead state agencies to bring together other relevant state agencies, schools, individuals with intellectual disabilities, their family members, advocacy organizations and service providers to plan and implement the initiatives.

We suggest the addition of the following language under projects funded under Section 303 [p. 134, lines 1-8]:

Section 303 (b) (4)

(G) Systems change projects *to increase competitive employment for persons with developmental disabilities*

Assisting community rehabilitation providers in building additional capacity to provide competitive employment

1. Revise the legislative authority for VR services to groups of individuals that permit funding for the establishment, development or improvement of community rehabilitation programs to only permit activities that expand individualized competitive employment strategies.

We note that Section 103(b)(2)(A) [p. 75, lines 28-29] has been revised to specify that services must result in competitive employment and include supported employment.

2. Develop a national grant program to provide assistance to individual community rehabilitation programs or groups of CRPs to build their internal capacity to provide individualized services and supports leading to competitive employment.

We suggest the addition of the following language:

Section 303(b)(5) NEW (iv) *projects that assist individual community rehabilitation programs or groups of programs to build their internal capacity to provide individualized services and supports leading to competitive employment.*

Supporting strategies that work

1. CCD recommends several improvements to the Projects With Industry Program (Section 611 (a)).

Amend to include service delivery area under Section 611 (a)(2)(A)(ii) [p. 179, lines 24-31] as follows:

(ii) identify job and career availability within the community *service delivery area*, consistent with the current and projected local employment opportunities identified by the *state or local workforce investment board* for the service delivery area under section 118(b)(1)(B) of the Workforce Investment Act

We note that Sec. 611 (e)(2) [p. 181, lines 32-33] has been amended to include projects that serve individuals across multiple states or nationally.

2. CCD believes provisions promoting entrepreneurship for individuals with disabilities needs to be included in the new Act and recommends reinstatement of Sec. 641 [a] on p. 189. This section first appeared in the 1978 amendments but was taken out in the 1998 amendments. However, it appears there may be references to entrepreneurship in other provisions of the Act.

Business Opportunities for Individuals with Disabilities - Reinstatement Sec. 641 [a] - "The Commissioner, in consultation with the Secretary of Labor, Administrator of the Small Business Administration and Secretary of Commerce may make grants to, or enter into contracts with, individuals with disabilities to enable them to establish or operate commercial or other enterprises to develop or market their products or services. Within ninety days after the effective date of this section, the Commissioner shall promulgate regulations to carry out this section, including regulations specifying (1) the maximum amount of money which may be provided under this section to any participant, and (2) procedures for certification, by designated state units, of individuals eligible to participate in any program under this section. [b] There are authorized to be appropriated to carry out this section such sums as may be necessary

3. Expand opportunities for engaging business as a partner in the vocational rehabilitation program. The task force had recommended the following language and notes that it has been incorporated into Section 109, p. 88, lines 1 – 22.

Providing Training and Support Services to Employers. A state may expend payments received under section 111 to educate and provide services to employers who have or are interested in hiring individuals with disabilities, this includes -- (1) providing training and technical assistance to employers regarding the employment of people with disabilities, including disability awareness, the Americans with Disabilities Act and other employment related laws; (2) working with employers to provide pre-employment training, recruit qualified applicants with disabilities, train employees with disabilities, and to retain employees who are at risk of losing a job due to disability related barriers; (3) providing consultation, technical assistance and support to employers in areas such as workplace accommodations, assistive technology, facilities and workplace access; and (4) assisting employers with access to financial supports, including tax credits and deductions available for hiring or accommodating individuals with disabilities.

6. Authorize RSA to fund special demonstration projects that support the development of working relationships between VR agencies, their community partners and employers on a multi-state and national level. These VR networks work collaboratively to promote the development of careers and employment outcomes for individuals with disabilities by referring qualified VR applicants and providing support services to employer partners, including those that do business on a multi-state and regional level.

We recommend the addition of the following language to Title III:

Section 301 -- Support the development of working relationships between VR agencies, their community partners and employers on a multi-state and national level. These VR networks work collaboratively to promote the development of careers and employment outcomes for individuals with disabilities by referring qualified VR applicants and providing support services to employer partners, including those that do business on a national, multi-state and regional level."

Promoting economic security

1. Consistent with our recommendations to the Workforce Investment Act, add to Section 7 the following new definitions on p. 8:

Asset development is a strategy to help low-income workers and job seekers, including individuals with disabilities, move toward economic security and greater financial self-sufficiency through income preservation, effective money and credit management, the pursuit of post-secondary education, the purchase of a home, business startup and growth, and the setting aside of resources for longer term needs and retirement.

Asset Development Services are a blend of services and supports that help advance economic self-sufficiency for low-income jobseekers, including individuals with disabilities including financial education, tax filing assistance and access to beneficial tax credits and other provisions, use of social security work incentives and individual development accounts (IDAs) and coordination with other savings programs including family self-sufficiency programs, college savings accounts, and home and small business ownership assistance.

2. Add a new option to Vocational Rehabilitation Services to Individuals

Section 103 (a)(20) Asset development services

Improving the administration and outcomes of the VR Act

1. Amend Section 12(a) Administration of the Act to add a section which reads:

In carrying out the provision of this Act, the Commissioner shall take necessary action to ensure that funds appropriated pursuant to the Act are expended by states only for the programs, personnel and administration of programs authorized by the Act.

2. Amend Section 12(b) Reports to add new a sentence:

To ensure funds appropriated pursuant to the Act are being used solely in accordance with the purposes of the Act.

3. Direct RSA and NIDRR to convene stakeholders to examine the case closure system and the standards and indicators used to evaluate VR to assess whether they have a negative impact on the provision of services to people with the most significant disabilities and develop strategies and incentives to address any issues they identify.

We suggest the following additional language to Section 204(a)(2)(A) [p. 112, lines 21-24] and Section 106 (a)(1)(A) [p. 82, lines 21-26]:

Section 204 (a)(2)(A) In no less than 3 months after enactment the Director shall convene stakeholders to examine the case closure system and the standards and indicators used to evaluate VR to assess whether they have a negative impact on the provision of services to people with the most significant disabilities and develop strategies and incentives to address any issues they identify. In no less than 6 months after the stakeholder process is complete, a report will be provided to the RSA Commissioner.

Section 106 (a)(1)(A) The Commissioner shall, not later than 1 year after receiving the report required by Section 204 (a)(2)(A), will revise and update evaluation standards and performance indicator for the vocational rehabilitation program consistent with stakeholder recommendations.

4. Support the ability of grant and discretionary programs to carry over funds into the next fiscal year.

We note that this appears to have been accomplished under Section 19 of the draft on p. 31, lines 1-5, lines 19-31 and under Section 509, p. 171, line 11; p. 173, lines 31-32.

5. Establish a 90 day deadline on the formulation and completion of the Individual Plan for Employment unless an extension is agreed upon by both the VR representative and the individual.

We note that this has been accomplished under Section 102(b)(3), p. 65, lines 37-41, Mandatory Procedures.

Native American programs

1. We note that the draft authorizes a Client Assistance Program for the Native American Consortium so that they can access important advocacy services, including under the Section 121 Native American VR program. CCD was very supportive of the language in the Senate draft legislation from last Congress that would fund a CAP for the P&A system serving the Native American Consortium. In addition, CCD is very supportive of the provision precluding funds for these new services until overall CAP appropriations reach or exceed \$13 million. This trigger will ensure that the creation of this new CAP will not divert funds from the existing CAPs until enough appropriations exist to maintain a level of support for all the CAPs.