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**SUMMARY OF REPORT TO CONGRESS AND THE LABOR SECRETARY
FROM THE ADVISORY COMMITTEE ON INCREASING
COMPETITIVE INTEGRATED EMPLOYMENT FOR INDIVIDUALS WITH DISABILITIESⁱ**

The Workforce Innovation and Opportunity Act of 2014 (WIOA) established employment of people with disabilities as a national priority.ⁱⁱ The goal of WIOA is to increase employment of people with disabilities in competitive integrated employment (CIE) and significantly limit placements in subminimum wage sheltered workshops. WIOA defines CIE as job that (1) pays people with disabilities at least the minimum wage and not less than the wage paid to people without disabilities for the same or similar work; (2) is performed in a location where the employee interacts with co-workers without disabilities; and (3) provides workers with disabilities the same opportunities for career advancement as their non-disabled co-workers.ⁱⁱⁱ

WIOA's substantive provisions include:

- Significant limits on the use of subminimum wage sheltered workshops, particularly for transition age and out-of-school youth, by
 - Requiring that anyone under 24 explore and try CIE before they can be placed in a subminimum wage setting,
 - Prohibiting schools from contracting with subminimum wage providers
 - Requiring at least annual engagement of anyone in a subminimum wage setting to discuss CIE alternatives.
- Requires state agencies – including Medicaid, intellectual and developmental disabilities (I/DD), vocational rehabilitation, and education – to enter into cooperative agreements to prioritize CIE.
- Requires that at least 15% of vocational rehabilitation funding be used for pre-employment transition services.
- Extends post-employment services from 18 to 24 months.
- Requires that at least half of states' supported employment grant funds be used for youth (up to age 24) with the most significant disabilities.^{iv}

In addition to WIOA's substantive provisions, the law also created a federal Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities ("the Committee").^v WIOA charged the Committee with developing findings, conclusions and recommendations for the U.S. Labor Secretary and Congress on: (1) ways to increase employment opportunities for people with I/DD and other individuals with significant disabilities in CIE; and (2) the use of subminimum wage certificates under 14(c) of the Fair Labor Standards Act (FLSA) for employing people with I/DD and other significant disabilities, including ways to improve oversight of such certificates.^{vi} The Committee was comprised of federal official members from key agencies,^{vii} representatives of national disability advocacy organizations, self-advocates, providers of employment services (both supported employment and sheltered workshop providers), employers, and academic experts.

The Committee issued its final report to the Labor Secretary and Congress on September 15, 2016.^{viii} The report was issued following ten public meetings held between January 2015 and August 2016. Hundreds of people testified or submitted written comments to inform the Committee’s work. In accordance with the rules governing federal advisory committees, the findings, conclusions and recommendations contained in the Final Report were developed by consensus of the Committee. Below is a summary of the Final Report’s major findings and recommendations by topic area. The Final Report can be found at https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf.

A. Federal financing and incentives

The Committee found that despite federal law and state policies that prioritize employment – like presumed employability of people with disabilities in federal law governing vocational rehabilitation (VR) and “employment first” state policies, current federal funding does not align with those priorities. For example, many states’ Medicaid reimbursement rates often incentivize segregation by paying CRPs higher rates for group services like “prevocational services” (typically provided in sheltered workshops), “group supported employment” (also known as crew or enclaves), or day habilitation. Additionally, many states’ rate models require day services to be funded using daily rates instead of hourly rates. However, funding day services with hourly rates instead allows people to work part-time and receive other daytime support when not working. Importantly, Medicaid has not required that CRPs show that employment-related services like pre-vocational services actually lead to an outcome of employment.^{ix}

There are multiple sources of federal funding for employment for people with disabilities, including Medicaid, VR, and special education funds under the Individuals with Disabilities Education Act (IDEA). Yet the Committee found that there is no common definition of CIE, or even what “counts” as employment under these programs. Each of these programs has different data reporting requirements, making it difficult to look at employment outcomes across programs. Further complicating the landscape is that under Medicaid, states themselves decide what “counts” as employment, making it impossible to compare data across states.^x

The Committee also found that research and practice has identified effective strategies that lead to CIE outcomes. For example, community-based work experiences have been shown to be more effective in achieving CIE than facility-based “work readiness” training programs. But these practices are not consistently and widely used, including by CRPs and professionals in the VR system. The Committee found that this is in part because of a lack of access to high quality training for these professionals and the lack of funding to pay these individuals professional wages.^{xi}

To address these findings, the Committee made the following recommendations:

- Federal agencies should identify, align, and develop clear policies and practices across their agencies to make CIE a funding priority for individuals with disabilities and to build capacity at the provider level, including with providers who serve transition age and out-of-school youth. Specific recommendations include:
 - Identifying funding strategies used by states that have the highest rates of CIE for people with disabilities
 - Providing detailed guidance on how states can braid or blend funding and use “pay for performance” methodologies that pay for CIE outcomes not just services delivered
 - Incentivizing CIE over other day services through enhanced federal funding (modeled after the 1915k Community First Choice Option) or providing federal funds to transition individuals from segregated day settings to CIE (modeled after the Money Follows the Person program used to transition individuals living in institutions to the community)

- using existing demonstration authorities or working with Congress on new authorities^{xii}
 - Providing guidance on how federal funding authorities (existing or new) could be used to support training, development, and technical assistance for employment direct support staff and providers
 - Developing consistent reimbursement rates for employment services funded by VR and Medicaid to ensure that people eligible for both programs receive a consistent level of support as they transition from short-term VR services to long-term Medicaid services^{xiii}
 - Providing funding and technical assistance to help providers of segregated day services transform their service models to provide opportunities for CIE^{xiv}
- VR and special education should ensure funding for transition age youth leads to improved CIE outcomes. Specific recommendations include:
 - Beginning transition and pre-employment services at or prior to age 14
 - Ensuring that transition age students have opportunities for integrated work experiences, with access to needed assistive technology
 - Providing youth receiving supported employment services opportunities to work towards a CIE goal for a reasonable period of up to 24 months
 - Presuming eligibility for VR services for anyone in 14(c) subminimum wage settings who expressed an interest in CIE or anyone considering placement in a sheltered workshop
 - Having the U.S. Department of Education’s Office of Special Education Programs (OSEP) and RSA develop working agreements (including at the state and local levels) to increase the number of students with significant disabilities that leave school employed or with a post-school employment plan, to increase their participation in transition programs, and to ensure reporting of post-school employment outcomes to federal agencies^{xv}
- Federal agencies should develop a common definition of CIE and common data collection requirements. Specific recommendations include:
 - Developing a federal definition of CIE based on WIOA and *Olmstead* litigation and settlement agreements regarding employment systems. The definition should require that the “employer of record” be the same for people with and without disabilities and not be a service provider.
 - Developing common reporting requirements for all recipients of federal employment funding, including at a minimum (1) number of people in jobs that meet the definition of CIE; (2) wages earned; hours worked; (3) length of time in CIE; and (4) benefits (e.g., paid time off). Additional recommended data collection includes income level over time, taxes paid, and reduction in the use of public support programs.
 - Funding studies on the impact of employment on people with disabilities, including utilization of other healthcare services, housing stability, use of public benefits, and access to employer health benefits
 - Providing assistance to states in establishing data systems and ensure that data is publicly available^{xvi}
- State agencies should develop standards of professional competence for providers of CIE and provide professional development. Specific recommendations include:
 - Training for all federal and state workforce development staff, teachers and educators, CRPs, and medical professionals who treat individuals with significant disabilities
 - Ensure pay scales take into account certification standards and ensure retention of skilled staff^{xvii}

- A federal interagency taskforce should be created to develop an implementation plan for these recommendations.

B. Transition age youth

Many youth with significant disabilities continue to have poor employment outcomes as they transition to adult life. The Committee found that the biggest challenges include limited access to work experiences during high school, uncoordinated delivery of services by multiple youth-serving agencies (e.g., school, VR, I/DD agencies), challenges in accessing needed assistive technology, a lack of information provided to families about the benefits of employment, and a lack of staff trained in helping transition age youth get CIE.^{xviii} The Committee noted, however, that multiple demonstration models focused on collaboration (such as Project Search) have been very successful in achieving CIE outcomes for students with I/DD and other significant disabilities. They also noted the new requirements in WIOA for transition age youth have great potential, if implemented well, to improve their employment outcomes.^{xix}

To address these findings, the Committee made the following recommendations:

- Bolster opportunities for early work experiences for transition age youth by:
 - Improving employment data collection for IDEA indicator 14 (post-secondary outcomes) and requiring state and local education agencies to provide technical assistance/develop improvement plans for low-performing schools.
 - Including provisions to improve employment outcomes in any reauthorization of IDEA or the Carl Perkins Career and Technical Education Improvement Act including requiring participation by VR and the I/DD agency, requiring transition planning to begin no later than age 14, and requiring at least one CIE opportunity before graduation.^{xx}
- Support and educate families about opportunities for employment by:
 - Requiring schools to regularly report to families of transition age youth on progress towards reaching transition-to-career goals
 - Enhance federal grants that can provide resources to families about employment, including Parent Training and Information Centers and Family Support Programs, and require them to include family engagement strategies around career development, financial planning, cultural diversity, and self-advocacy^{xxi}
- Improve professional development and training for both special and general educators^{xxii}
- Ensure systems integration and seamless transition for transition age youth by:
 - Waiving requirements that make it difficult to braid different funds targeted at transition age youth, including VR, Medicaid, and IDEA funding
 - Developing pilot programs that target youth with significant disabilities who are most at risk of ending up in subminimum wage sheltered workshops (which the Committee defined as students who take alternative assessments) and require the adoption of evidence-based strategies for CIE^{xxiii}
- Ensure that transition-age youth have access to assistive technology in CIE settings and that technology can follow students from school to the workplace when they graduate^{xxiv}

C. Use and oversight of 14(c) subminimum wage certificates

The Committee reported that that nearly 230,000 people with I/DD or other significant disabilities were still paid subminimum wages under 14(c) certificates, primarily through certificates held by CRPs serving people in sheltered workshops. The existence of the 14(c) program, combined with the fact that over 75 percent of individuals with I/DD receiving day or employment services are in a facility-based settings, reflects the historically low expectations for CIE and a systemic belief that this is the only type of “work” possible. The Committee found that modern federal disability laws, including WIOA and the ADA, are based on an assumption that all individuals with disabilities are capable of, and have a right to, CIE and that the widespread use of 14(c) certificates and investment in sheltered workshops is “antithetical to the intent of modern federal disability law and policy.”^{xxv}

To address these findings, the Committee recommended:

- Congress should amend Section 14(c) of the FLSA to allow for a “well-designed, multi-year phase-out” that results in people with disabilities entering CIE. Along with the legislative change, there should be:
 - Oversight of the phase-out through increased data collection
 - Appointment of a federal interagency taskforce to develop and oversee a plan for phase out that considers the mandates of WIOA regarding 14(c), resources for technical assistance, measures to mitigate unintended consequences of phase out, and safeguards to ensure people currently under 14(c) certificates are “engaged and equipped with information and the opportunities necessary for understanding options and making informed choices”^{xxvi}
- DOL should engage in stronger enforcement of 14(c) certificates and use a strict standard for issuing and renewing certificates consistent with the requirement that they can only be used when “. . . necessary in order to prevent the curtailment of opportunities for employment . . .”^{xxvii} by:
 - Prior to issuing or renewing a 14(c) certificate, requiring states to present evidence of the current lack of employment of opportunities together with a plan with specific timeframes and benchmarks to expand CIE capacity in order to make the use of the 14(c) certificate unnecessary in the future
 - Prior to issuing or renewing a 14(c) certificate, requiring the applicant (that is, the provider) to provide information to substantiate their claim that the certificate is “necessary to prevent the curtailment of opportunities for employment,” including data on the availability of CIE and supported employment services in the region they serve. They must also describe the steps they will take to assist individuals under 14(c) to obtain CIE, including the in-reach and engagement of current 14(c) workers under Section 511 of WIOA.
 - Seeking feedback from federal partners (including the DOJ, Administration for Community Living, and CMS) about relevant information before approving or renewing any 14(c) certificate.^{xxviii}
- Federal agencies should coordinate and provide technical assistance to states to assist with CRP/provider transformation from sheltered workshop to CIE models, including to states already engaging in system transformation due to their implementation of the HCBS settings rule or an *Olmstead* plan or settlement. CMS should enforce, and provide technical assistance in implementing its guidance on the time-limited nature of pre-vocational services.^{xxix}

D. Building capacity with businesses and employers

The Committee found that the high demand for work by people with disabilities is not yet being met by businesses, and that the lack of engagement by business is a significant barrier to CIE for people with disabilities. Too often, the narrative for hiring people with disabilities is that “it is the right thing to do” versus focusing on the untapped talent of people with disabilities and the benefits they could bring to employers. In addition to the need for better outreach and messaging, the Committee found that businesses need better support from employment services personnel (like American Job Centers) and providers in helping them identify qualified job candidates with disabilities and helping employers understand how supported and customized employment could benefit their business.

The Committee identified high growth industries, such as healthcare, that remain a largely untapped resource for people with I/DD and other significant disabilities, although there are some good existing collaborations that could be expanded. It also discussed other barriers to employment, including confusion about the ability to work and retain benefits and the lack of public transportation in many communities.^{xxx}

The Committee made findings about other important policies that increase employer engagement and interest in hiring of people with disabilities. This includes recently-released Section 503 regulations, which require federal contractors to develop outreach and recruitment plans to meet a goal of seven percent of their workforce being people with disabilities,^{xxxi} and working with employers to better understand federal tax policies that provide employer incentives for hiring people with disabilities.^{xxxii}

To address these findings, the Committee recommended:

- Creating a federally-led campaign targeted to employers about the benefits of employees with disabilities
- Developing training and certification requirements for all employment services personnel who work within the public workforce system, including certification requirements and standard online training modules that cover specific areas such as assistive technology, work incentives, and benefits counseling
- Setting aside a percentage of local Adult and Dislocated Worker and Vocational Rehabilitation funds to support work experiences, including internships, on-the-job training, and paid work experiences for people with I/DD and other significant disabilities^{xxxiii}
- Increasing funding and capacity for the Social Security WIPA program that provides benefits counseling to workers with disabilities and to promote the onboarding of Social Security Ticket to Work Employment networks into American Job Center sites^{xxxiv}
- Ensuring that safe, accessible transportation is available to people with disabilities, including public transportation as well as employer-provided transportation
- Developing and expanding initiatives for employment of people with I/DD and other significant disabilities with the healthcare industry, which is the fastest growing sector in the American economy
- Providing additional outreach and guidance regarding implementation of Section 503 affirmative hiring requirements for federal contractors, including addressing disincentives and concerns about employee self-identification as a person with a disability^{xxxv}
- Updating and amending tax credits and incentives to employers who hire people with disabilities, including the Work Opportunity Tax Credit, the Disabled Access Credit, and the Architectural and Transportation Barrier Removal deduction^{xxxvi}

E. Federal reform initiatives

The Committee identified three initiatives where leadership by federal agencies could help build capacity for CIE. First, the Committee found that there is a need for guidance and best practices around integrated day and “wraparound” supports. Integrated day services should consist of community-based activities that “complement and help maximize CIE and that provide a meaningful set of activities outside of work hours.” Wraparound supports are complementary services that enable individuals to find and sustain employment, such as affordable housing and transportation. The Committee found that for people with disabilities who have not yet obtained CIE, integrated day services should focus on activities aimed at increasing the person’s chances of CIE, such as integrated work-based learning experiences, networking, and career planning. For people who have already achieved CIE, these services should focus on expanding and sustaining CIE outcomes and furthering socioeconomic advancement, like increasing hours, wages, benefits, and career advancement. The Committee also found that there is a need to develop performance measurements to ensure that any publicly-funded integrated day services leads to working the number of hours desired, people reaching their highest earning potential, and long-term economic security.^{xxxvii}

To address these findings, the Committee recommended:

- Federal agencies convene a cross-agency working group to develop policy guidance and technical assistance on integrated day services and other wraparound supports, with the goal of:
 - Clarifying that integrated day and wraparound services are intended to maximize and not displace CIE
 - Identify best practices in integrated day and funding strategies
 - Clarifying that integrated day services should not be in a facility or require a program schedule
 - Clarifying how federal funds can be used to promote natural supports^{xxxviii}

Second, transition age youth demonstrations have shown that positive employment outcomes require that youth have continuity of services as they transition from child-serving systems to the adult service system. The Ticket to Work (TTW) Program is a successful work incentive program for recipients of Social Security Insurance (SSI) benefits. TTW incentivizes employment outcomes (versus just providing services) by paying employment providers as they reach certain employment milestones. But TTW is currently limited to adult participants. To address these findings, the Committee recommended:

- Creating a TTW pilot for transition age and out-of-school youth (starting between ages 14 and 16) and to continue up to age 30
- Requiring that employment providers in the pilot assist with developing an Individualized Career Plan, career coaching, and counseling about navigating the adult service system
- Having participating employment providers work collaboratively with schools to place students in part-time and/or summer jobs prior to leaving school and assist with transition to CIE as students graduate and for out-of-school youth^{xxxix}

Third, the Committee identified fear of losing benefits as a critical barrier to employment, including fear of losing access to long-term services and supports provided through Medicaid. The Committee identified strategies that have been found to be effective in helping people with disabilities with financial planning and understanding that work is critical to financial independence.^{xl} To address these findings, the Committee recommended:

- The federal government should develop and coordinate a systems and policy change initiative designed to increase the number of SSI/SSDI beneficiaries that become “optimally

employed” in CIE while still maintaining eligibility for income maintenance and essential health benefits as well as preserving access to LTSS necessary for self-sufficiency and maximum socioeconomic advance. The initiative would include:

- Review of the definition of disability across programs
- Policy reforms to clarify, strengthen and expand work incentives
- An education campaign targeted to people with disabilities and families about how SSI/SSDI recipients can work and still maintain critical benefits
- Technical assistance to localities, states, and employment networks to bring to scale effective practices like peer mentoring, career coaching, and systems navigation support^{xlii}

F. AbilityOne

AbilityOne is a federal program that requires all federal agencies to purchase certain supplies and services from agencies that employ people with disabilities. In Fiscal Year 2014, AbilityOne awarded approximately \$2.8 billion in contracts. Agencies that are awarded AbilityOne contracts must ensure that at least 75 percent of the labor hours necessary to complete the contracts are completed by people with disabilities, and they may pay subminimum wages to people working on these contracts.^{xliii}

The Committee found that although the AbilityOne program could be powerful in creating opportunities for CIE for people with significant disabilities, the design of the current program actually inhibits increasing those opportunities. The barriers include: (1) potential conflicts of interest in determining who is eligible to participate in AbilityOne contracts because the agencies function as both the employer and service provider; (2) the 75 percent contract hour requirement in practice ends up segregating people with disabilities from the mainstream workforce; (3) the lack of a requirement or expectation that AbilityOne contract work offers a path to CIE with mainstream employers; and (4) that the AbilityOne Commission, which oversees the program, was not designed to ensure the program aligns with the goals of CIE in federal law.^{xliiii}

To address these findings the Committee recommended that:

- Congress amend the statute authorizing the AbilityOne Program, the Javits-Wagner-O’Day Act (JWOD), to align with modern disability laws by requiring CIE be a goal of participation in the AbilityOne program. An amended JWOD should include:
 - Developing new criteria for procurement selection that avoids conflicts of interest, requires at least two qualified vendors to be considered for each contract, expands the pool of eligible agencies, and awards additional preferences to vendors who have documented success in transitioning people to CIE
 - Reconsidering the requirement that 75 percent of contract hours be performed by individuals with significant disabilities, including by examining strategies to avoid congregation of people with disabilities without reducing the number of jobs available, allowing more contract work to be sub-contracted to mainstream employers
 - Immediately eliminating the use of 14(c) subminimum wage certificates consistent with the March 2016 AbilityOne declaration
 - Establishing new eligibility criteria that reflects presumed employability and is determined by an entity other than the agencies who compete for the contract using objective criteria (such as receipt of SSI/SSDI or receipt of Medicaid services based on disability)
- Engage in research on the current program and any proposed changes
- Authorize an independent third party evaluation to study the recommended changes to the JWOD program, informed by research and with input from stakeholder and experts^{xliiv}

ⁱ Summary drafted by Alison Barkoff, Director of Advocacy at the Center for Public Representation and policy advisor to CPSD. Ms. Barkoff was a member of the Advisory Committee. This summary is excerpted from a document under federal review for publication.

ⁱⁱ 29 U.S.C. § 3101(1).

ⁱⁱⁱ 29 U.S.C. § 3102; 29 U.S.C. § 705(5).

^{iv} 29 U.S.C. § 3101, et. seq.

^v 29 U.S.C. § 795n(a).

^{vi} U.S. Dep’t of Labor, Advisory Committee Charter, Advisory Committee on Increasing Competitive, Integrated Employment for Individuals with Disabilities (Dec. 2, 2014), available at <https://www.dol.gov/odep/pdf/20141229ACICIE-Charter.pdf>.

^{vii} Member federal agencies were the Department of Education’s Rehabilitation Services Agency; Department of Health and Human Services’ Centers for Medicare & Medicaid Services and Administration for Community Living ; Department of Labor ‘s Wage and Hour Division, Office of Disability Employment Policy, and Employment and Training Administration; and the Social Security Administration.

^{viii} Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities Final Report to the Secretary of Labor, the United States Senate Committee on Health, Education, Labor and Pensions, and the United States House of Representatives Committee on Education and Workforce (Sept. 15, 2016) (“Final Report”), available at https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf

^{ix} Final Report at 9-10.

^x Final Report at 10-11.

^{xi} Final Report at 10-11.

^{xii} Final Report at 12-13.

^{xiii} Final Report at 14-15.

^{xiv} Final Report at 15-16

^{xv} Final Report at 13-14.

^{xvi} Final Report at 16-17.

^{xvii} Final Report at 18-19.

^{xviii} Final Report at 21.

^{xix} Final Report at 22.

^{xx} Final Report at 22-23.

^{xxi} Final Report at 23-24.

^{xxii} Final Report at 24-25.

^{xxiii} Final Report at 25-26.

^{xxiv} Final Report at 26-27.

^{xxv} Final report at 28-29.

^{xxvi} Final report at 29-30.

^{xxvii} 29 C.F.R. § 525.9.

^{xxviii} Final report at 30.

^{xxix} Final Report at 30.

^{xxx} Final Report at 33-35.

^{xxxi} 41 C.F.R. § 60–741 (Sept. 24, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-24/pdf/2013-21228.pdf>. See also 29 C.F.R. § 1614 (Jan. 3, 2017), available at

<https://www.gpo.gov/fdsys/pkg/FR-2017-01-03/pdf/2016-31397.pdf> (Section 501 regulations requiring affirmative action for federal employees with disabilities, which was issued after Final Report).

^{xxxii} Final Report at 35-36.

^{xxxiii} Final Report at 36-38.

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- xxxiv Final Report at 39-40.
- xxxv Final Report at 41-43.
- xxxvi Final Report at 43-35.
- xxxvii Final Report at 46-47.
- xxxviii Final Report at 46-48.
- xxxix Final Report at 49-51.
- xl Final Report at 52-54.
- xli Final Report at 51-52.
- xlii Final Report at 56-57. In March 2016, the U.S. AbilityOne Commission issued a declaration urging agencies participating in the AbilityOne Program to commit to paying at least minimum wage. *See* Declaration in Support of Minimum Wage for All People Who Are Blind or Have Significant Disabilities (Mar. 2016), available at <http://www.abilityone.org/commission/documents/US%20AbilityOne%20Commission%20Declaration%202018March2016%20Final.pdf>.
- xliii Final Report at 56-57.
- xliv Final Report at 57-61.