**Council of State Administrators of Vocational Rehabilitation**

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 July 21, 2013

**CHIEF EXECUTIVE OFFICER**

The Honorable Tom Harkin, Chairman

Health, Education, Labor and Pensions Committee

The Honorable Lamar Alexander, Ranking Member

Health Education, Labor and Pensions Committee

Re: Council of State Administrators of Vocational Rehabilitation (CSAVR)

Comments on the Bipartisan staff discussion draft on Title V of WIA

Dear Chairman Harkin and Ranking Member Alexander:

On behalf of the CSAVR thank you for the opportunity to submit comments on the Bipartisan staff discussion draft to reauthorize the WIA and the amendments to the Rehabilitation Act of 1973. There are a number of proposed changes that are of significant concern to the CSAVR and the State Vocational Rehabilitation Agencies who will have the responsibility to deliver services, based on the proposed changes. We would very much appreciate your consideration of our concerns as you develop a final bill.

On the surface one could make the analogy that the DOL is about employment and Vocational Rehabilitation (VR) is about employment. Therefore it would seem logical to relocate the RSA within the DOL. However, looking beyond the surface; these two agencies fundamentally approach employment from very different beliefs, perspectives and processes. There are also essential differences between the qualifications required of the staffs that deliver the services.

The CSAVR wishes to thank you and the Committee for the recognition of the specialized work that VR does with its business customers to support the careers of individuals with disabilities. VR has trained and skilled staff that work together nationally to support the preparation of individual customers for careers and the matching of their skills to the employment needs of VR’s business customers. The key here is the relationship with business to better understand their employment needs and the overall needs of the public or private sector organization. This may include a broad strategic approach that considers facilities, policies, IT, diversity initiatives and other areas of the company beyond just the recruiting and HR team. The CSAVR would like to recommend, based on the feedback from VR’s business customers, that the term business be substituted for employer to recognize the broad range of talent and support services provided to VR’s business customers through the VR system nationally.

CSAVR’s first concern with the proposed move is that the functions of the RSA Commissioner can be delegated to another officer who is directly responsible to the Assistant Secretary of the Office of Disability Employment Policy, Services, and Supports. This appears to be an expansion of the delegation authority in current law and does not address who has the authority to delegate and under what conditions or circumstances. We are concerned that the integrity of the VR program could be jeopardized under this proposed change.

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The intent of Congress related to this law is to protect the resources (staff and fiscal) of the VR program, to be focused on the careers, employment and independence of eligible individuals with disabilities. The RSA Commissioner and the State VR Directors play an important role in this regard. The CSAVR wants to support the continued protections in law regarding the integrity of the VR program and related resources. The question becomes, if the function of the RSA Commissioner is delegable, will this protection continue to exist?

**Page 7 of the discussion draft – Disability Employment Services and Supports**

* CSAVR is concerned with what appears to be a broad change in the recognition of “rehabilitation services to employment services. The appearance is that the intent is to eliminate the traditional “rehabilitation” services and lump all of the VR services into a general employment services section, along with the move to DOL that provides services to the masses versus individuals. The recognition of rehabilitation services that are provided by a qualified VR counselor are critically important to the successful employment of individuals with the most significant disabilities and should continue to be recognized in this section.
* Regarding Independent Living, CSAVR wants to emphasize the need for continued collaboration between VR and IL, as comprehensive rehabilitation services and IL supports are part of the Individualized Plan for Employment (IPE). Though the Bipartisan draft proposes to move IL to HHS, continued coordination between VR and IL is key to the employment and independence of most VR consumers.

**Page 13 of the discussion draft – Definition of Customized Employment**

* CSAVR firmly believes that customized employment is a valuable service and that it should be a service option under supported employment. We do not believe however, that it should be the option of first choice or necessary if an appropriate job match is pursued initially. Having customized employment as a free standing definition and service we believe sends the wrong message to business customers. Customized employment is an option or strategy for employment but the VR system is based on the premise that competitive, integrated employment is the first option to be explored.

**Page 22 - Definition of pre-employment transition services**

* The proposed definition prescribes a specific set of activities that “shall” be provided but goes on to say activities should be based on the individual student’s needs. This appears contradictory. CSAVR would prefer language that says the

coordinated set of activities “may” include, with the understanding they will be based on the individual needs of the student.

**Page 37 – speaks to “high quality” employment**

* This description is open to individual interpretation. CSAVR recommends that the determining factor regarding the quality of the employment outcome be if the employment outcome is consistent with the individual’s skills, interests, abilities and informed choice.

**Pages 39 and 40 - State Plans**

* The proposed changes to the state plan process, in the Bipartisan draft, requires states to submit a unified or combined state plan under the WIA, and no longer allows Vocational Rehabilitation the option of submitting a separate state plan on the same day the plan for WIA is submitted. The CSAVR would like to know why the option for a separate plan was removed from current law.

**Page 41 – Designated State Unit**

* The CSAVR is extremely grateful for the specificity of language on the DSU which makes it very clear of the role and function of the DSU, including the protection of the integrity of the program’s fiscal and staff resources.

**Page 42 – Cost Reimbursement for 121 Programs**

* The CSAVR is very appreciative of the proposed change in current law which makes it possible for the 121 Program to pursue cost reimbursement from SSA for the rehabilitation of individuals who are SSI or SSDI recipients.

**Page 43 - Exemption for Order of Selection**

* The CSAVR is also very grateful for the proposed changes to the law in the Bipartisan draft that allows a state some flexibility to exempt certain individuals from the OOS priority.

**Page 45 – Comprehensive System of Personnel Development**

* CSAVR strongly disagrees with the change in requirements for the education and training of the professional staff who deliver VR services to individuals with disabilities and business. The role of a VR counselor in the 21st century workplace is one built on a solid understanding of both the needs and goals of the individual with disability(ies) as well as the employment needs and other supports required by business partners. In current law and regulations the Designated State Unit defines their approach to CSPD, including the pre-service, in-service and continuing education requirements based on the standards at the state or national level. The requirements of staff to meet the highest educational standards related to certification, licensure or registration at the state or national level reflects the professional requirements of staff necessary to provide quality services to both the individual and business customer. That requirement is reflective of the specialized skills required to meet the high expectations of individuals and the requirements of a 21st century workplace. The certification, licensure or registration of VR professional and paraprofessional staff also include the requirements for keeping current on education and training as well as following the strict ethical requirements. This is particularly important considering the access to confidential medical information and working in a business environment where the reasonable accommodation process is often part of the work with both VR’s individual and business customers.
* When working with an eligible individual the VR counselor is required to understand the medical aspects of disability and the services necessary to reduce or eliminate the disability-related barriers that allow the person to attain their goals for a career and independence. The pre-service programs in rehabilitation counseling include a focus on the medical and psychological aspects of disability, social, educational, financial, legal, vocational and other factors that impact the individual’s ability to be employed and independent. The VR Counselor plays a unique role in the transition from a medical or educational environment into the workplace and the community. The proposed language “or any other field that reasonably prepares individuals to work with consumers and employers” does not adequately address the skill sets required of professional and paraprofessional staff in Vocational Rehabilitation.
* We strongly disagree with the assumption that a BA in business or economic studies prepares a person to deal with the medical aspects and other factors required to support the employment and independence of individuals with disabilities. Does a person with a BA in business understand the DSM-V or the use of assistive technology and rehabilitation engineering?In the workplacewould the personexpected to work as a VR counselor or business consultant understand how to conduct a job analysis or worksite assessment and work with the employer to follow an individualized process for determining reasonable accommodation?VR’s business customers often say, “we just don’t know what we don’t know.” They expect VR staff to be prepared to provide the supports needed for the employee with the disability and the employer. Rehabilitation counseling programs at the pre-service, in-service and continuing educational level provide that unique training not found in other professions.
* The 80 VR Directors across the country have fully supported VR’s work with business. This has included building an infrastructure called the National Employment Team (NET) that delivers talent and appropriate VR services to support business at the local, multi-state and national level. The NET is a team of business consultants from the 80 agencies that have the education, skills and expertise to work in a dual customer environment. For individuals with disabilities this offers an opportunity to build careers based on the real-time input and business based training opportunities with employers. For business the VR team through the NET offers an opportunity to access the talent pool of VR candidates and to build a strategic business plan for accessing, promoting and retaining this diverse employee group. This is particularly important with the Executive Order for Federal agencies and pending regulations for Federal Contractors, both of which focus on increasing the representation of employees with disabilities in the public and/or private sector workplace.
* The VR system works closely with university partners that understand the unique expertise and skills required by VR professionals and paraprofessionals. In the business relations approach, VR has worked with business and university partners to build a train the trainer program focused on the development of a business relations strategy at the state, multi-state and national level. That training is now being used for continuing education and VR is in the process of working with university partners to build this approach into the pre-service programs at the BA and MA level.

**Page 48 – Additional Data Collection Requirements**

* CSAVR is extremely concerned with the extensive addition of data collection requirements; particularly from the cost perspective, to modify data collection systems to capture all of the new data. In the current fiscal environment, there are severe shortages of case services funds to assist eligible individuals with disabilities to pursue employment. CSAVR recommends that OMB conduct a cost analysis to implement the new data requirements versus modifying current data collection elements.
* CSAVR firmly believes that each system under WIA should have meaningful performance measures that accommodate the unique nature of each of the programs and believes that the current standards and indicators for the VR program are meaningful performance measures for individuals served by VR. Rather than common measures, CSAVR would recommend making improvements, as appropriate, to existing performance measures for CORE partners in WIA, which would save millions of dollars needed to change data collection systems and reporting requirements to implement the proposed common measures.
* Common performance measures imply that all things are equal across core programs and that is simply not the case. Different populations, differences in the significance of disability of disability of individuals served, and differences in the nature, extent and cost to deliver individualized services, versus a menu of available services, are drastically different for VR consumers than for consumers served by other core partners in WIA.

 **Page 53 – State Plan Coordination with Employers**

* CSAVR appreciates and agrees with the inclusion of the work with VR’s business partners in the State Plan. CSAVR recommends the following change in language: “business that provides for building relationships with employers and…”

**Page 54 – Cooperative Agreement with Medicaid**

* CSAVR understands the importance of and the need for a cooperative agreement with Medicaid and coordination with AT programs, Ticket to Work and others. It would be beneficial if those entities with whom VR is required to work and have cooperative agreements also have the same requirements in the appropriate authorizing legislation to work with VR.

**Page 91 – Section 109**

* CSAVR recommends updating the language regarding the ADA of 1990 to include the ADAAA and other employment related laws. Use the term “business” and reference their employment needs, understanding that the work that VR does with business includes a cross company strategy to develop a corporate culture that embraces employees with disabilities. This cross company strategy often includes lines of business and representatives outside of recruiting and HR, such as facilities and training staff. This section should also reflect the work that VR is doing with business at the state, multi-state and national level.
* In Section (5) the draft language references the involvement of community rehabilitation programs. VR works with over 10,000 community partners nationally. CSAVR recommends that the language in this section reflect VR’s direct work with business and engaging the vendors or community agencies in the service delivery to business based on the specific needs of the individual and the employer. This approach allows the business to access the largest talent pool via the VR system and the specific supports of the community agency based on the needs of both customers and geographic location of the business.

**Page 99 – Section 113**

* This section references RSA’s technical assistance to VR agencies related to the work with business. It includes feedback from business organizations and other agencies that impact the employment of people, including individuals with disabilities. This section should also include language which reflects the feedback and consultation of VR staff who work with business at the local, multi-state or national level. These VR staff work in the business relations arena on a day to day basis and their input is valuable to any use of resources or programs that would be developed to support the work that they are doing.

**Page 100 – Pre Employment Transition Services**

* CSAVR believes in and supports the provision of transition services to students with disabilities and acknowledges that early intervention with transition students results in more positive outcomes. CSAVR cannot support the prescriptive nature of services outlined in the proposed definition of pre-employment transition services and is very concerned with the requirement that each local VR office have a transition coordinator and support staff to carry out the functions. All State VR Programs do not have the staff or financial resources to carry out the prescriptive provisions and a set aside of 15% of Title 1 funds, with no more than 5% of these funds reserved for administrative costs, will not address the myriad of issues presented by the proposed revisions.
* CSAVR recommends that the DSU coordinator for pre-employment transition services should be required to coordinate with the VR Business Relations staff. This staff has the relationships with business that can support mentoring, job shadowing and work experience for transitioning students.
* Adding to the complexity of implementing the transition requirements is the proposed move of RSA from the DOE to the DOL. The high priority given transition services in the reauthorization of the WIA does not support moving VR away from the DOE and OSERS where linkages and collaborative relationships already exists that would be extremely beneficial in addressing the transition requirements.
* If Congress wishes State VR Agencies to fully embrace the provisions proposed in the Bipartisan Senate draft bill, we respectfully request your support to work with State Governor’s to remove barriers such as staffing caps on hiring and furloughs of State VR agency staff, so that the proposed provisions can be implemented with an expected level of success.
* Without sufficient dedicated staff and fiscal resources, the task will not only be impossible, but an injustice to students with disabilities for we will raise their hopes and expectations for services which all State VR Agencies will absolutely not be able to deliver.
* A final concern is that the services and resources needed for the adult population of individuals with the most significant disabilities seeking employment would become secondary, and CSAVR does not believe this was the intent of the Rehabilitation Act of 1973, as Amended.

**Page 174 – Section 511**

* CSAVR strongly supports the regulatory definition in current law which only permits competitive employment in an integrated setting as an acceptable employment outcome for Vocational Rehabilitation. We are also extremely concerned that State VR Agencies are expected to be the gatekeepers for students who may enter sheltered employment through other avenues, the prescriptive requirements for services for transition students and the requirement that State VR Agencies provide up to 48 months of extended services for transition students. Concerns are primarily based on insufficient staff and fiscal resources to successfully perform the proposed functions.

**Page 183 – Allotment for Supported Employment**

* CSAVR submitted language requesting that unused reallotment funds be considered to increase funding available for supported employment because supported employment does not require matching funds. It is of significant concern, that the Bipartisan draft bill proposes that supported employment require matching funds and that ½ of the amount of supported employment funding can be used to pay for extended services. In the current fiscal climate, a number of State VR Agencies are already unable to match all of the federal funds available to their states. This increase in match requirements for supported employment will further preclude services to individuals with the most significant disabilities and increase state waiting lists for services under the Order of Selection.

While there are other areas of concern to the CSAVR with the Bipartisan Draft bill, we have focused our comments on those areas that are of major concern that will prohibit the CSAVR’s support of this bill.

In summary we again focus on two major areas of concern with the proposed move of the RSA to the DOL. The first is the separation of RSA from the DOE and OSERS with the significant emphasis on the provision of transition services to students with disabilities in the proposed Bipartisan draft. Again, the collaborative relationships that currently exist between Vocational Rehabilitation, Special Education and the public school system, because they have been nurtured by the DOE, will ultimately be eroded if the RSA is moved to the DOL. State VR Agencies have ably responded to the every-increasing demand for the provision of transition services to youth with disabilities, without any additional resources. The nation average for expenditures on transition and educational services is 50% of VR’s case service funding and a minimum of 35% of customers served annually by VR are transition youth. Since the provision of transition services to youth with disabilities remains a high priority in the reauthorization of the WIA, the direct linkage of VR to the DOE and OSERS is critically important to assure continuity of service provision to transitioning youth.

Finally, the provision of individualized services and supports, essential to serve persons with the most significant disabilities, qualified staff to provide those services, and the necessary fiscal resources to carry them out, must remain the focus of the Public VR Program. Any less will have dire and unintended consequences on the employment of individuals with the most significant disabilities in competitive integrated employment.