

# Workplace Choice and Flexibility for Individuals with Disabilities Act

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## **BACKGROUND**

In 2014, Congress passed the *Workforce Innovation and Opportunity Act* (WIOA), which amended the *Rehabilitation Act of 1973* by providing important employment support to individuals with disabilities in entering competitive integrated employment (CIE)—a term that is used to define employment for individuals with disabilities that is integrated with the non-disabled workforce. Following the passage of WIOA, the Department of Education regulated on the definition of CIE that significantly narrowed Congress’s definition. In January 2017, the Department issued a problematic FAQ document on the criterion for an integrated location in the definition of CIE. These actions combined harmed individuals with disabilities’ access to and choice in meaningful employment opportunities, including jobs within the AbilityOne program—a program established to create employment opportunities for individuals with significant disabilities through federal procurement contracts.

The regulation and FAQ guidance created confusion among state vocational rehabilitation (VR) agencies in whether they can refer individuals with disabilities to AbilityOne jobs and jobs under similar state set-aside contracts with the purpose of supporting employment for individuals with disabilities (state-use). Many VR agencies have adopted a “blanket denial” approach instead of conducting a case-by-case determination for employment opportunities in AbilityOne and state-use programs as required by law. Unfortunately, these blanket denials deprive individuals with disabilities from being referred to valuable employment opportunities in a wide variety of settings, from work centers to jobs in federal and state government buildings.

The Department recently proposed an updated FAQ and is currently reviewing public comments. While the updated FAQ makes positive improvements from the 2017 guidance, it still hinders individuals with disabilities access to and choice in valuable employment opportunities. The restrictive regulatory definition of CIE remains in effect.

## **BILL SUMMARY**

The *Workplace Choice and Flexibility for Individuals with Disabilities Act* will significantly improve workforce opportunities for individuals with disabilities by rolling back the Department’s regulation that significantly narrowed Congress’s definition of CIE. Specifically, it will do so by stating that CIE includes jobs under federal and state-use contracts with the goal of improving employment opportunities for individuals with disabilities, including AbilityOne jobs. It also clarifies that CIE includes work that involves social and interpersonal interactions with colleagues, vendors, customers, superiors, or other individuals that the employee may encounter during a given workday.