



**Marc Maurer, *President***

200 East Wells Street

*at Jernigan Place*

July 22, 2013

The Honorable Tom Harkin  
Chairman  
Senate Committee on  
Health, Education, Labor & Pensions (HELP)  
United States Senate

The Honorable Lamar Alexander  
Ranking Member  
Senate Committee on  
Health, Education, Labor & Pensions (HELP)  
United States Senate

Dear Senator Harkin and Senator Alexander:

The National Federation of the Blind (NFB) is the oldest and largest nationwide consumer organization of blind Americans. As a major stakeholder group representing blind and low-vision consumers throughout the country, we would like to express our overwhelming frustration about the process used to develop the Rehabilitation Act reauthorization language. Providing a timeline of only a weekend to review over two-hundred pages of language, years in the making, is unrealistic and denies the committee the full benefit of our seventy-three years of expertise and experience in the rehabilitation of blind people. Moreover, offering this limited opportunity for comment during a period in which most, if not all, disability consumer organizations are dedicating their limited resources to the celebration and commemoration of the anniversary of the Americans with Disabilities Act (ADA) further contributes to our difficulty in making a full response. The Rehabilitation Act is the foundation of state and federal programs for the education and employment of Americans with disabilities. Allowing only a weekend for consumers to provide input on dramatic changes to this critical legislation trivializes our input and is disrespectful to the fifty-seven million Americans with disabilities.

Furthermore, it is difficult to evaluate the proposed draft without access to the research and data used by the committee in crafting the proposal. The following comments are therefore, of necessity, general observations made after a relatively cursory review. We respectfully request access to the data and research used to formulate the policy recommendations, along with additional time to provide in-depth comments on the proposed language. We believe that the committee should allow two weeks for stakeholders to prepare more additional and detailed comments before further consideration of this draft legislation, which will dramatically affect the lives of Americans with disabilities for years to come. Having put forward this request for additional time, we have so far identified five areas of specific concern, which are as follows:

Proposed Section 511

The National Federation of the Blind does not believe that any American worker with a disability should be paid less than the federal minimum wage for any reason. We believe that Section 14(c) of the Fair Labor Standards Act (FLSA) is unfair, discriminatory, and immoral, and

we are advocating for its repeal. The research from the National Disability Rights Network (NDRN) and others documents the detrimental impact of Section 14(c) of the FLSA. Moreover, the National Council on Disability (NCD), after an extensive evaluation, also recommends a phase out of Section 14(c) of the FLSA. We therefore vehemently object to the language of Section 511 of Title V of the proposed Rehabilitation Act reauthorization. As we have said before, this language is an endorsement of Section 14(c) of the Fair Labor Standards Act (FLSA) and its antiquated contention that people with disabilities cannot be competitively employed. Section 14(c) of the FLSA has not previously been referenced in the Rehabilitation Act, and it should not now be linked in any way to this reauthorization. While we respect the committee's desire to prevent or reduce the tracking of students and youth into segregated subminimum wage employment, we believe that current law, through the requirement of "Clear and Convincing Evidence" to prove un-employability of a person with a disability, and the regulatory language published in the Federal Register on January 22, 2001, prohibiting placement in sheltered employment, already provides avenues for the restriction or prohibition of sheltered subminimum wage employment under the Act. The proposed language will have an adverse impact on this existing language, because it sets forth a step-by-step process to be followed before placing an individual in segregated employment, creating a track to this undesirable outcome where none currently exists. We therefore strongly urge the committee to remove Section 511 from the reauthorization language.

#### Transfer of RSA to the Department of Labor

The National Federation of the Blind objects to the transfer of the Rehabilitation Services Administration (RSA) from within the Department of Education to the Department of Labor (DOL). While transferring RSA to DOL theoretically emphasizes the ultimate goal of employment, this proposed transfer devalues the needed expertise in providing quality rehabilitation services to people with disabilities in order to best prepare them for competitive integrated employment. The National Federation of the Blind endorses all of the points made in the letter dated July 22, 2013, to Senators Harkin and Alexander from David DeNotaris, president of the National Council of State Agencies for the Blind, and refers the committee to this letter for a more detailed explanation of our objection to this transfer.

#### Transfer of the older blind programs to HHS

For similar reasons to those stated above, we object to the transfer of the Older Blind program to the Department of Health and Human Services. As to further changes to the independent living provisions of the Rehabilitation Act, we defer to the comments of the National Council on Independent Living.

#### Transfer of NIDRR to HHS

The National Federation of the Blind objects to the transfer of the National Institute on Disability and Rehabilitation Research (NIDRR) to the Department of Health and Human Services.

#### Reduction in membership of the NCD

The National Federation of the Blind objects to the proposed reduction of the National Council on Disability from fifteen to nine members. Such a reduction will reduce the participation

of stakeholders on the NCD, limiting its usefulness to the President and Congress as an advisor on disability policy. Furthermore, the cost reduction achieved by this membership change appears to be miniscule.

Having stated our initial concerns, the National Federation of the Blind looks forward to further opportunities to assist the committee in its deliberations with respect to this critically important legislation. We close by reiterating our request for an additional two weeks to provide further comments to the committee to that end. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "John Paré, Jr.", written in a cursive style.

John G. Paré, Jr.  
Executive Director for Advocacy and Policy  
NATIONAL FEDERATION OF THE BLIND