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June 8, 2021

The Honorable Charles Schumer  
Majority Leader  
U.S. Senate  
Washington, DC 20515

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
Washington, DC 20515

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Gary C. Peters  
Chair, Senate Committee  
on Homeland Security  
Washington, D.C. 20510

The Honorable Rob Portman  
Ranking Member, Senate Committee  
on Homeland Security  
Washington, D.C. 20510

The Honorable Carolyn B. Maloney  
Chair, House Committee on  
Oversight and Reform  
Washington, D.C. 20515

The Honorable James Comer  
Ranking Member, House Committee  
on Oversight and Reform  
Washington, D.C. 20515

Re: Letter in Support of AbilityOne and Employment Opportunities

Dear Leader Schumer, Leader McConnell, Speaker Pelosi, Leader McCarthy, Committee Chairs and Ranking Members:

As we move forward toward fully reopening U.S. businesses, we want to make sure that lessons learned over the past 15 months are remembered and acted upon in beneficial ways. Toward the end of the last Congress, two Resolutions were introduced acknowledging the essential work that has been performed throughout this pandemic by individuals with disabilities or who are blind – work that has been instrumental in keeping the country and the economy moving. In the U.S. Senate, [Senate Resolution 679](#) was introduced by Senator Braun. Among the work the Resolution recognizes are the following:

- (1) provisioning the United States Navy hospital ships, Comfort and Mercy;
- (2) manufacturing and delivering thousands of critical products that strengthen the COVID–19 response of the United States and support hospitals, health care professionals, first responders, the United States military, and governments at all levels, including personal

protective equipment, hand sanitizer, cleaning products and disinfectants, first aid kits, exam gloves, and toilet paper;

(3) supporting Federal and State efforts to establish pop-up hospitals;

(4) assembling kits for the Army that are used to build COVID–19 treatment centers across the United States;

(5) providing the United States military with critical products, including the helmets and uniforms soldiers wear every day as National Guard units are deployed around the United States;

(6) performing custodial and commissary work, food services, and total facility management services on military bases across the United States and the territories of the United States;

(7) maintaining offices and providing other services in Federal, State, and local government buildings where vital work is being performed, including—

(A) Federal buildings in and around the District of Columbia, such as the Library of Congress, the congressional office buildings, the Mark Center, and the buildings that house the Federal Bureau of Investigation, the Department of Justice, the Internal Revenue Service, the Centers for Medicare & Medicaid Services of the Department of Health and Human Services, the Department of Veterans Affairs, and the Department of State;

(B) State buildings, such as State police barracks, State department of transportation operation centers, and State courthouses; and

(C) numerous other locations across the United States and the territories of the United States;

(8) with respect to services performed for the medical centers in the Department of Veterans Affairs—

(A) providing deep-cleaning and sanitizing services;

(B) operating switchboards; and

(C) manufacturing prescription bottles, exam gloves, and other products;

(9) providing call center and technical support to State and Federal entities;

(10) operating crisis hotlines and call centers to process the surge in State unemployment claims;

(11) sourcing and providing urgently needed personal protective equipment;

- (12) providing personal protective equipment for employees of the Bureau of the Census;
- (13) delivering 250 Federal medical stations under contract with the Centers for Disease Control and Prevention;
- (14) leveraging sewing expertise to produce hundreds of thousands of cloth face masks for Federal customers, including the military and medical centers in the Department of Veterans Affairs, medical clinics, local businesses, and the general public;
- (15) increasing the availability of supplies and adapting Base Supply Centers to sell personal protective equipment and cleaning products to customers on military bases;
- (16) stepping up custodial efforts to—
  - (A) address known COVID–19 incident locations; and
  - (B) establish preventative measures to enable other essential employees, such as medical professionals and military personnel, to continue their service throughout the COVID–19 pandemic;
- (17) responding to dynamic changes in acquisition methods to meet the needs of Federal, State, and local government customers;
- (18) packaging food items and necessary supplies for ongoing work performed by Federal, State, and local government employees; and
- (19) hosting virtual support groups, donating items, and providing essential services in communities across the United States.

A similar Resolution was introduced in the U.S. House of Representatives by Congressman Morelle, and has been reintroduced in the 117th Congress as [H. Res. 159](#). We are leading off what we anticipate being a lengthy letter with a discussion of these Resolutions because it is important to recognize that this essential work was largely conducted under the federal AbilityOne program and similar state use programs.

We cannot overstate how important it is for Congress to recognize the efforts made by individuals with disabilities or who are blind throughout this pandemic, prior to the pandemic, and that will be made going forward. Too often, misinformation has led to limitations on job referrals, and it is time for that to end. These jobs are vital to the nation and provide highly valued employment for individuals both with and without disabilities. These jobs matter to all of us, but to no one more than the individuals performing them. These jobs may arise under a preference program, but they are not jobs created for individuals with disabilities or who are blind. They are jobs that must be performed for all our benefit, and the individuals performing them deserve all our thanks.

We ask that the U.S. Senate reintroduce and pass a new Resolution replicating Senate Resolution 679, “*Expressing appreciation and support for essential employees with disabilities or who are blind during the COVID–19 pandemic and beyond.*” We also ask that the U.S House support and pass H. Res. 159.

Having laid the groundwork, there are several other recommendations that we would like to make that would increase opportunities for individuals, as well as recommendations with respect to the AbilityOne Program that we believe will enhance the Program.

### **Social Security Asset Limits and Earnings Limitations**

Despite the efforts of Congress, advocates, businesses, and self-advocates, the unemployment rate for individuals with disabilities remains far too high and the percentage of working-age individuals with disabilities who are attached to the workforce at all, which is presently around 20.3 percent, is far too low. For the past decade, these numbers have moved incrementally at best. Part of the reason for the limited movement is a well-founded concern by the individuals affected that they will lose their benefits if they earn too much money. The \$2,000 asset limit to earn Supplemental Security Income (SSI) is far too low and holds individuals back from expanding their options, increasing their work hours, or accepting promotions or higher wages, and generally works against the goal of increasing work opportunities for people with disabilities. Similarly, Social Security Disability Insurance (SSDI) is based on an understanding that recipients are unable to work due to their disability. While there is no specific SSDI asset limit, there are inherent roadblocks designed in the system that will assume an individual with disabilities does not need SSDI insurance if they are working at a certain level.

Many individuals with the most significant disabilities are reluctant to risk losing their benefits and are thus disincentivized from either working at all or expanding their work opportunities. Congress should focus on what it can do to encourage employment by (a) increasing the asset limit for SSI, and (b) clarifying that an individual who earns enough to no longer require SSI or SSDI will be immediately eligible for reinstatement if they are no longer able to work or if they have a reduction in work hours or pay. As Congress looks at this further, it undoubtedly will find additional solutions to eliminating these barriers to full employment.

### **AbilityOne Ratio Limits**

Modernizing the AbilityOne Program, which we support, calls for Congress to review how ratio limits are evaluated. The Javits-Wagner-O’Day Act requires 75 percent of direct labor hours to be performed by employees with disabilities, but the law does not permit the hours of work performed by employees with disabilities who work in an administrative or management capacity to be included in that 75 percent calculation. This leads to an inaccurate impression that jobs arising under the AbilityOne Program do not provide upward mobility or the opportunity for promotion. Nothing could be further from the truth, but we cannot show that without Congress’s help. Congress should modify the law to account for all employees with disabilities within an organization when determining the 75 percent ratio.

## **Vocational Rehabilitation Referrals**

When the Workforce Innovation and Opportunity Act (WIOA) went into effect in 2016, the AbilityOne Program and many potential candidates for excellent jobs became burdened by a presumption that was included in the preamble to the WIOA Title IV regulations, although not the regulations themselves. In that preamble, a statement was made that ratio-based jobs including those under the AbilityOne program, are not “typically found in the community.” This was subsequently included in guidance issued by the Department of Education in early 2017. As the language in Senate Resolution 679 and H.R. 159 make clear, these jobs are in communities across the country, including on the Capitol Hill campus.

Too many people who want to work and are looking for work are being denied the opportunity because of a narrow and prescriptive approach to AbilityOne jobs that has been adopted by many state Vocational Rehabilitation agencies (VR). That needs to change. Congress should act immediately to make it clear that if a job pays full and fair wages and has the opportunity for advancement equivalent to what any employee might expect, then a job arising under the AbilityOne Program qualifies as Competitive Integrated Employment. This will open the door for increased employment and allow individuals with disabilities to be eligible for vocational supports, training, and other resources that will support increased independence and self-sufficiency. We support the goals of WIOA, but the Department of Education’s five-year report on employment outcomes under WIOA was not a positive story. We can turn WIOA into a far more successful law if Congress will step in and redirect VR agencies to recognize that individuals with disabilities have an absolute right to learn about and be referred to these good jobs and that such referrals will allow VR offices to count successful referrals as an employment outcome. This would be a win across the board, for the individuals affected, for the VR program as a whole, and for the federal government, which relies on successful completion of its contracts.

We also believe that eligibility for participation in the AbilityOne Program should be determined by a licensed medical professional. This will help assure the integrity of the Program.

## **Definition of Disability**

The Javits-Wagner-O’Day Act includes language that defines a person with a disability as someone who is “unable to maintain normal competitive employment.” This reflects outdated thinking and needs to be revised. We agree with the recommendations of the Department of Defense’s 898 Panel on AbilityOne Contracting, Oversight, Accountability, and Integrity to adopt a modern definition of disability.

## **Mandatory Status and Procurement Goal**

Nonprofit agencies that are designated by the AbilityOne Commission are mandatory sources to supply commodities and services included on the federal Procurement List. We support the continuation of the mandatory status that is included in the current law, and we ask that Congress also adopt a 1.5 percent Federal Procurement Goal for the AbilityOne Program. This would support the continued vitality and long-term viability of this much-needed Program.

Thank you for your consideration. We are submitting this letter on behalf of ACCSES, and the organizations listed below. Please feel free to reach out to Kate McSweeney at (202) 349-4279 or at [kmcsweeney@accses.org](mailto:kmcsweeney@accses.org) for additional information if we can be of assistance.

Sincerely yours,



Terry R. Farmer  
President & Chief Executive Officer



Kate McSweeney  
Vice President of Government Affairs & General Counsel

cc: Senator Patty Murray, Senate Committee on Health, Education, Labor and Pensions, Chair  
Senator Richard Burr, Senate Committee on Health, Education, Labor and Pensions,  
Ranking Member  
Senator Patrick Leahy, Senate Committee on Appropriations, Chair  
Senator Richard Shelby, Senate Committee on Appropriations, Ranking Member  
Senator Jack Reed, Senate Committee on Armed Services, Chair  
Senator James Inhofe, Senate Committee on Armed Services, Ranking Member