



April 16, 2012

OPEN LETTER

Senator Tom Harkin
Chairman, Committee on Health,
Education, Labor and Pensions
United States Senate
Washington, D.C.

Senator Michael Enzi
Ranking Member, Committee on Health,
Education, Labor and Pensions
United States Senate
Washington, D.C.

Senator Patty Murray
Chairwoman, Subcommittee on
Employment and Workplace Safety
United States Senate
Washington, D.C.

Senator Johnny Isakson
Ranking Member, Subcommittee on
Employment and Workplace Safety
United States Senate
Washington, D.C.

RE: ACCSES Response to NDRN's Report, *Beyond Segregated and Exploited*

Dear Senators Harkin, Enzi, Murray, and Isakson:

On behalf of the individuals with the most significant disabilities whom we serve, I would like to express my strong opposition to the recommendations made by the National Disability Rights Network (NDRN) in its report released on April 3, 2012. The recommendations, if adopted, would curtail, restrict, and deny employment options, choices, and opportunities for thousands if not hundreds of thousands of individuals with the most significant disabilities who want to work. I am also dismayed by the tone and tenor of the cover letter written by Curtis Decker, the Executive Director of NDRN.

Specifically, ACCSES members oppose recommendations to repeal Section 14(c) of the Fair Labor Standards Act (FLSA) and end certain work opportunities provided by community rehabilitation programs. We believe that these recommendations will have the effect of denying the tangible (pay) and intangible (self-esteem and a sense of purpose, accomplishment and pride) benefits from working for those persons with the most significant disabilities who may not be able to work, with or without reasonable accommodations, at a productivity level demanded by private sector employers. If these recommendations were to be adopted, many of these individuals would no longer enjoy the opportunity to work for pay and may therefore be forced into more restrictive placements (e.g., day habilitation programs) or be placed on waiting lists for services.

We believe it is possible to expand and improve policies that enhance employment opportunities for people with disabilities, including individuals with the most significant disabilities who want to work in competitive, integrated employment without eliminating opportunities for those who make an informed choice to work at a wage commensurate with their productivity consistent with FLSA. In developing policy options, we should be guided by the principle of person-centered planning, self-determination and informed choice - one size does not fit all. We must also be guided by the principle that our policies

must facilitate opportunities to work in the most integrated setting appropriate at the highest possible wage, commensurate with an individual's strengths, interests, priorities, abilities, and capabilities. While a priority should exist for competitive integrated employment, it should also be recognized that other valid employment outcomes may occur, including paid work in accordance with federal law, self-employment, and volunteer (unpaid) work.

ACCESS members believe that there are a number of legislative, regulatory, and funding steps that can better direct resources to increasing community employment and safeguard against exploitation. Among others, for instance, the transition from education to adult services needs much greater coordination in order to provide students and their families with accurate information about employment outcomes, including the optimal outcome of competitive, integrated employment. Progress in making employers more receptive to employing people with disabilities is also needed. ACCSES has developed several papers that include policy recommendations for enhancing employment opportunities for and safeguarding against exploitation of persons with disabilities. These policy papers can be found on our website, www.accses.org.

In addition to our fundamental disagreement with the NDRN recommendations regarding Section 14(c) and recommendations that restrict opportunities to work, we are dismayed by the tone and tenor of this report. Contrary to assertions in the report's introduction, providers of disability services are part of the solution, not part of the problem. ACCSES members and their staffs have devoted their lives to maximizing employment opportunities for people with disabilities. To suggest, as the report does, that disability service providers are "exploiting" people with disabilities and are "facilitating this travesty" is irresponsible and inflammatory. Pitting people with disabilities against their disability service providers is a divide and conquer strategy that distorts the widely shared goal of employment for people with disabilities that is as competitive and as meaningful as possible, consistent with the strengths, needs and preferences of the person with a disability.

In short, we simply do not understand how condemning colleagues in the disability community furthers the best interests of people with the most significant disabilities. We remain committed to working with you and others in the disability community to achieve the best employment outcomes for all people with significant disabilities, consistent with the values and principles embedded in the ADA and the Supreme Court decision in *Olmstead*. However, if we are to accomplish this outcome, I reiterate the sentiment articulated by John Kemp, my predecessor that we need your concerted leadership to ensure that all members of the disability community are treated with dignity and respect and that legitimate interests and concerns identified by all members of the community are recognized and addressed.

Sincerely,

A handwritten signature in black ink that reads "Terry R. Farmer". The signature is written in a cursive style with a large, sweeping initial "T".

Terry R. Farmer
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