

## **NAEPB Executive Special Session Teleconference Minutes – Approved February 24, 2010**

### **Call to Order**

President Karen Walls called the meeting to order on February 24, 2010 at 11:04 am EST.

### **Board Members Present**

Kirk Adams  
Dan Boucher  
Mike Gilliam  
Jim Kerlin  
Chuck Lange  
Reinhard Mabry  
John Mitchell  
Dick Monaco  
Lou Moneymaker  
Billy Sparkman  
Karen Walls  
Kevin Lynch  
Cathy Jones attended

### **Guests Attended**

Jessica Abrahams

President Karen Walls gave a brief review of highlights surrounding the modernization initiative. We sent joint letters (NIB/NAEPB) to the Committee for Purchase (CFP) indicating that we remain supportive of the new definition of significant disability. However, we firmly believe this should not broaden the definition so as to negatively impact individuals who are blind or most severely disabled that the program was specifically designed to serve. The latest modernization draft document was presented in July of 2009. Reinhard Mabry, Kevin Lynch and Karen will be meeting with Andy Houghton and Tina Ballard next week, and its pretty well assured that Andy will be asking about our stance on modernization. Karen needs a clear understanding of the NAEPB Board position before going into that meeting. Jessica Abrahams from McKenna, Long and Aldridge (MLA) is on the call to provide us with her perspective on what is happening on the Hill. Kevin Lynch is also on the call to answer questions to what NIB is doing. The floor was opened for discussion. Kirk Adams said he read the briefing and understood it to say there is a wide spread lack of interest on the Hill concerning modernization. If this is true, Kirk feels we should not be spending resources at this time. Reinhard talked about what has happened in the last couple weeks. At our Retreat we talked about a “reboot,” a slowing down of the process to build a base of support for modernization from the broader disability community. We were looking at 2-3 years to complete this effort for support, thus putting forth our own vision of modernization, and even more importantly being able to better utilize the regulatory

process as a method of “shaking loose from the bushes” any people who would like to do harm to the program. Kevin Lynch went to the CFP and NISH with that message and got a lukewarm reception. Then there appeared to be a very aggressive period where it looked as if things were going to move forward much more quickly than anticipated, and we might need to gear up. Kevin said when he met with Bob Chamberlin, Andy Houghton and Tina Ballard, and conveyed our concerns about the timing and where Congress is right now, that we felt there was the lack of a comprehensive strategy in place to accomplish this initiative. He conveyed that NAEPB feels that some of the work would be better accomplished through regulatory action rather than statutory. The response Kevin received was they felt they could not accomplish all they wanted through the regulatory process. Kevin then gave the Board an explanation of the regulatory process. Jessica explained if our goal is to enhance the current statute, then it is best done via regulation, which is legally viable and strong enough. If however we want to basically change the Program, then we would want to change the Act statutorily. It appears that many of the changes in the proposed modernization document could be achieved by way of the regulatory process; however, there are a few changes that would need to be made by way of the statutory process. The question is whether NAEPB feels the statutory changes are important enough to open the Act. There was discussion concerning the importance of changing how direct labor hours are calculated. Kevin spoke to the language surrounding this change in the current proposed modernization. He felt certain pieces would require statutory change. Reinhard reported when it appeared recently that the Act might be opened sooner than we thought, agencies gave feedback that they were concerned about the downside in doing so. Chuck Lange asked if we have enough say in the process to keep the Act from being opened. Reinhard said according to his and MLA’s sources, if everyone is not on the same page, Congress will be inclined to not open the Act. Chuck asked that in light of all that is in front of the Congress, is there an upside or downside to the timing. Reinhard said if he were to attempt to answer that question, he would only be speculating. He said that anytime the statute might be opened there is inherent risk. We would certainly be an important voice but not the only voice. The Obama Administration feels we are a very important program, but there are other critical issues before the legislature. Reinhard said we need to come to grips with whether there is enough reward for the risk of opening the Act. Jessica felt there may be five issues in current proposed legislation that would require statutory treatment. Those are changing the definition of disability, adding two new members to the CFP, one vs. two CNA’s, 75% ratio requirement applying to only AbilityOne work, and expanding the definition of employment hours to include supervisory and managerial positions. The question is whether we feel those five are significant enough to seek the legislative change by opening the Act. Mike said no one wants to open the Act, but the real question is if this thing starts moving forward, do we want to position ourselves so Kevin has a seat at the table, or do we say no, walk away and hope we have enough clout to stop it. Jim Kerlin said it appears to him it’s only a matter of time when the Act will be opened; therefore, shouldn’t we take the initiative to develop our own language for proposed legislation. To this point, we have always been on the reactive side to language proposed by others and Jim feels we should take a more proactive position by proposing what we want. In general, Reinhard agreed with Jim, and stated that Kevin and the G-4 group felt that we should be going a different direction than in the past. Jessica stated she feels we

do have a strong voice in this process, and that if we do not want the Act opened, we do have a say. Jessica feels that part of the problem is to this point we have not taken any kind of an opposing position, and by not doing so it appears we are along for the ride. If in fact we are opposed to this, we need to step up to the line and express our views. If we don't, it may become too late to do so. The Hill wants to hear from us. If we are opposed to opening the Act, we need to say so. Karen said if this is going to happen, how do we really feel about the proposed modernization. What are the things we feel good about, and what are the things we have issue with. We need to act on our position instead of riding the wave. Kirk feels strongly the 75% ratio issue really needs to be updated, particularly as it relates to not counting supervisory and managerial positions. Chuck agrees with Kirk, and feels not having this can undermine upward mobility. Again it comes back to the same question, is this important enough to open the Act. Dick asked if the Public Policy Committee, NIB or MLA has a recommendation for the NAEPB Board to follow. Kevin referred to the letter of support to the CFP, and stated he feels we still support the position as represented in the letter, including our concerns about broadening the definition of disability. The problem we have is that after many versions of trying to draft an acceptable definition of significant disability, the CFP has the government oversight of the program and this becomes their definition. They have the responsibility of implementation and enforcement. The definition of blindness is very black and white, while the definition of significant disability is very gray. This is problematic. It appears the major NAEPB concerns are the risks involved in opening the Act, and the definition that may broaden the population being served by NISH. Some feel that changing the definition of severely disabled could change the underlying nature of the Program and who it was designed to serve. That could be very dangerous. Chuck stated that we first need to decide if this Board supports opening the Act or not. Jim offered a strategy to reach a decision. Discussion followed, and as a result Kirk suggested that we should: support an effective modernization of the Act with the right consensus building and the correct partnering; not to agree with a broadening of the definition of disability; address the five points that need to be done statutorily; address the other issues through regulation. This is essentially the same position that was presented in January as a result of deliberations with the NIB and NAEPB representatives to the G4. A direction such as this would still be supportive of the concept, but would slow down the process by allowing time for the development of a sound strategy. It would also allow for things to be done in the right way, as well as in the end, minimizing the risk if and when the Act is opened. There seemed to be a general consensus to this approach. Lou stated he felt it was essential for NAEPB and NIB to be aligned in this effort. Jim requested that an update be done to the NAEPB Position Chart to reflect what has been accomplished to this point. He also asked for the addition of a column to the chart showing which points should/could be handled legislatively or via regulation, and for the addition of any new issues to the chart. Kevin made the point that the CFP should let us know how they are effectively implementing the current definition of severe disability and how they intend to insure our concerns are met in moving forward with the proposed definition. Karen stated she feels she has a clear understanding of our direction for the upcoming meeting with Andy and Tina.

Karen said modernization will be a primary agenda item at the NAEPB Board Meeting at the Public Policy Forum.

**Adjournment**

The meeting was adjourned at 12:17pm EST.

Respectfully submitted,

Lou Moneymaker