



The National Association for the Employment of People who are Blind

NAEPB Executive Session Meeting

Monday, June 9, 2014

11:00am – 12:00pm EST

CONFIDENTIAL – Not for Distribution

Approved on 2/5/15

NAEPB Board Members Present

Robert Garrett	Assistant Secretary
Mike Gilliam	Chair Strategic Planning /Commercial Bus. Development/VP of Base Supply Centers
Rudy A'mico	Treasurer
Jim Kerlin	Vice President of Operations
John Mitchell	Vice President of Public Policy
Eric Stueckrath	Assistant VP, Operations
Dennis Steiner	President
Reinhard Mabry	Vice President of Services
Lou Moneymaker	Secretary
Shelly Taylor	Chair of Ethics, Practices and Future Trends
Dave Wells	Assistant Vice President of Public Policy
Kevin Lynch	Ex-Officio Member, President and CEO, NIB

NIB Staff Persons Present

Angela Hartley	Executive Vice President / Chief Program Officer
Carla Williams	Administrative Assistant, NAEPB

Call to Order

The Executive Session was called to order by President Steiner at 11:00am EST. Mr. Moneymaker proceeded with a Executive Committee Member roll call.

Approval of Minutes

Mr. Steiner presented the Executive Session minutes in draft form from the May 20, 2014 Executive Session Meeting. As there were no corrections or additions, the minutes were accepted as distributed.

Discussion: US AbilityOne Commission's Definition Working Group Discussion

Mr. Steiner stated that the Executive Call was scheduled to discuss the Option 3 proposal. He further commented that a significant number of recommendations were being made from the DSP sub-group that Ms. Ballard and the Commission has put together. Historically, the groups were formed as a response to the Scoocum case and the GAO Audit. Many have been involved working on the definition of disability and discussions include suitability and the process by which items are added to the PL. Mr. Steiner stated that the sub-group/committee has gone well beyond the scope of what it was intended to do. There has been very little representation from NIB and NAEPB. Mr. Steiner stated that a response was needed, but he wanted to solicit feedback. Ms. Hartley put the conversation into context for everyone. She stated that over a year ago, NIB began reporting out on DSP groups. The Commission denied the opportunity by Commission to have a representative present during the definition group. Not agree to any changes to the definition unless the membership gave buy-in. In the very beginning, questions were raised about the definition and what constituted severely disabled. When the Commission put together the DSP Working group, they stated that they wanted to examine the way we apply and interpret significant, severe disability and competitive employability. In the charter, the definition stated that recommendations to strengthen the definition and how it is implemented would be examined. In the group, there are reps from the severely disabled community, Bobby Silverstein, representing ACCSES and the DOJ Civil Rights Division. Definition/Option 3 is the working definition that Eve Hill (DOJ) and Silverstein advocated. SourceAmerica takes exception to the definition, but have not been able to take it out to the agencies. NIB is bringing it up, because in the meeting of May 28 Ms. Ballard joined the call and stated that she expects all of the groups to reach a consensus and

wrap up the work that has been ongoing. She further stated that consensus is required of the group. SourceAmerica and NIB stated that it is no way to offer consensus unless it is taken to the constituent groups. Ms. Ballard agreed the work can be shared "within the family" and agreed take it out to the NAEPB and NCSE to the NAEPB and NCSE. Working groups brief out on July 10th with consensus recommendation from all groups. SourceAmerica should have more concerns. NAEPB should focus on page 3, where they are trying to expand the definition of disability and create a set of rules and procedures that have to be followed, even when bringing a blind person into the program. Ms. Hartley further stated that this would dramatically change the responsibilities that the nonprofit agencies have perhaps making this a program of last resort. Proposed to set-up rules applicable to AbilityOne Applicants, would be an amendment to the current regulations that would change steps required before a non-profit agency could bring a blind person into the program. Next section of the document refers to the on-going providing of out-placement which would have to be done semi-annually, and the employee would have to demonstrate that they are looking for employment outside the AbilityOne Program. The Commission can't just put recommendations into place; it would have to go through the regulatory process, so there would be a public comment period. Ms. Hartley would not feel comfortable stating that this is a consensus definition.

Ms. Taylor stated that she has major concerns with the definition, which tends to make the AbilityOne program appear as if it is a "cannot do any better program." Everyone has worked too hard to upgrade type of employment, including more programs, commercial venture. These are viable employment program offers. The definition gives a very negative connotation, one worked for years to overcome. In Louisiana it's known as "informed choice." She commented that page 4, section 3 as written is very destructive.

Mr. Mabry inquired of the group, where do we go from here and was a written response in order? He further stated that the definition is inconsistent with the Commission's objective in terms of employment growth. Ms. Hartley stated that the working group has another meeting tomorrow, so she would like to collect consensus. She further stated that the response should come in the form of a letter from NAEPB. Ms. Hartley will obtain SourceAmerica's feedback. The first 3 pages is not the concern, yet the latter 3 pages is the focus. Mr. Lynch stated that the overall concern is that the Commission went far beyond the original charter of what was intended for the group. He stated that the NAEPB should respond back stating that this is totally unacceptable, as there was no outside of scope of definition and that's it awful, no inclusion.

Mr. Mabry stated that he agrees, but there is a need to convey the sentiments that NAEPB were not involved in the process and it's inappropriate to have discussions, as its gets in the way of the employee/employer relationship. There is a significant case to be made. Remain silent on the first 3 pages - allow SourceAmerica to chime in on those. Mr. Mitchell inquired about the participants of the working group from SourceAmerica. Ms. Hartley stated that the following representatives from SourceAmerica were representatives in the working group: Bob Chamberlain, Debra Atkinson (facilitator), John Kelly, Nancy Ellen Gentile and Rich Gilmartin (representing NCSE). Mr. Mitchell stated that it was totally objectionable to present ideas without NAEPB's representation.

Mr. Gilliam suggested a get together to have a discussion with agency heads from (SourceAmerica and NIB) to outline concerns. Mr. Lynch advised that all should be aware that the Commission was not involved in the through process. Eve Hill (DOJ) and Bobby Silverstein (ACCSES) have driven this and are very interested in bringing the AbilityOne program into alignment with current disability processes. Mr. Lynch suggested not throwing water on the Commission, but stated that NAEPB should have been involved in the conversation.

Mr. Steiner questioned if anything within the Committee has been approved. No approval was given, but discussions took place with various options, stated Ms. Hartley. Everyone has requested that a document be put together with pros, cons and factual information which will be discussed. Mr. Gilliam suggested pulling together both NCSE and NAEPB for a conference call to discuss the topic. Ms. Hartley stated that the larger issue must be seen and discussed internally.

Mr. Steiner stated that from the definition standpoint, definition OK, rules that take issue with? Ms. Hartley stated that the rules have a slippery slope whereas it ties into blindness. Mr. Lynch stated if they want to have further discussion, representatives should be added to the committee from NAEPB. Ms. Hartley requested a sense from NAEPB on how to proceed. Mr. Garrett stated that there are 2 things: 1) Commission overstepped boundaries 2) Regulations are over the top with regard to what the expectations are. People may not respond positively if accusations are thrown that we were not included.

Mr. Lynch stated that the Commission has been working outside of the boundaries of FACA (Federal Advisory Committee Act), which is how federal agencies have to go about making rules/regulations. The recommendations would have to go through the regulatory process with administrative procedures first. It's bothersome that some individuals want to throw AbilityOne in with regards to competitive employment.

Mr. Steiner agreed with Mr. Garrett that the rules to be over the top and unenforceable. Ms. Hartley stated that after the Scoocumb case (3/13) the NIB Board wrote a letter to Mr. Poleo raising concerns about the case, including definition of what it means to be able to engage in normal, competitive employment and the employee safety and suitability issue. NIB believes that the Commission needs to take a look. The Commission determined who was on the working group list, which is as follows:

Definition Suitability Process Group

Ed Anthony – Education Representative

Jim Kesteloot – Private Citizens

Kathy Martinez (DOL)

US Ability Commission and SourceAmerica Staff Persons

Bobby Silverstein – ACCSES

DOJ reps (Eve Hill and others)

Mr. Moneymaker stated that the group needed to return to the salient points to present to the Commission.

#1. No issues with definition, the real concern is that group went well beyond the original charter and began to draft rules changing the blind side of the program, which is the primary point we need to make to the Commission.

#2. We must be included to determine what the future will be.

#3. Fewer people will be employed (with the program or by other entity).

Mr. D'Amico stated that competitive, integrated are included, but choice is not. Outside influence, not opposed to saying that they were not involved in the process and needed to be.

Mr. Kerlin stated that the presumption is that AbilityOne agencies are not integrated. Ms. Hartley stated that some of it has to do with the worksite and type of work. A job that pays less than minimum wage, the DOJ does not consider it competitive employment.

Mr. Steiner stated that the focus needs to be on how it will affect people we serve. Further, we are seen as people who take advantage of the program and build large organizations. If these rules are enforced, people will sit home for a long period of time (2 or more years) that would otherwise have meaningful employment. A lot of blind employees would not get hired if the state had to do the hiring, stated Mr. Steiner.

Next Steps

Ms. Hartley will put together a draft for NAEPB to review. Ms. Hartley will send a summary update via e-mail after the conference call. Ms. Hartley will draft something more formal for distribution. Mr. Garrett inquired if something would need before the meeting. Ms. Hartley will report back with what NCSE and SourceAmerica responds with as well.

Conclusion & Adjournment

Mr. Steiner stated that these are important conversations that can have a substantial impact on the program and people we serve. As there was no further discussion, the call concluded at 11:47am.