



U.S. ABILITYONE COMMISSION

Policy 51.403
Effective Date: January 1, 2024

TITLE: DETERMINING ELIGIBILITY OF PARTICIPATING EMPLOYEES

1. PURPOSE.

This policy prescribes the requirements an NPA must meet to count individuals towards the direct labor hour (DLH) ratio of individuals who are blind and/or have significant disabilities in the workforce of a nonprofit agency (NPA) in order for the NPA to be qualified to participate in the AbilityOne Program (Program). It also sets forth the documentation requirements and record-keeping responsibilities of an NPA; the review and evaluation responsibilities of a Central Nonprofit Agency (CNA); and the oversight and quality assurance monitoring responsibilities of the Commission.

2. APPLICABILITY.

This policy applies to the Commission, the CNAs, and the NPAs.

3. AUTHORITY.

- (a) 41 U.S.C. §§ 8501 – 8506, Javits-Wagner-O’Day (JWOD) Act
- (b) 41 CFR Chapter 51, Committee for Purchase from People Who Are Blind or Severely Disabled

4. DEFINITIONS AND ACRONYMS.

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Commission Policy 51.102, Definitions. Terms unique to a specific subject matter are defined below.

Term	Definition
Participating Employee	An employee who is blind and/or has a significant disability and is counted towards the direct labor hour (DLH) ratio mandated by the JWOD Act.
Permanent Disability	A significant physical or mental disability that is not expected to substantially improve during an individual’s lifetime.
Significant Job Support	A reasonable accommodation or an adaptation that is needed by an individual with a significant physical or mental disability and that may be extensive and ongoing in order for that individual to be successful in the job position.



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Technical Assistance	The process of providing targeted support and expertise to an NPA to build capability and capacity, or to resolve performance challenges. Technical assistance may include prescribing corrective action plans and providing training and consulting to identify, select, or design solutions based on research or recognized best practices.
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5. RESPONSIBILITIES.

(a) The Commission:

- i. Establishes methods for the NPAs to use in determining whether individuals are eligible to be participating employees in the Program.
- ii. Determines whether the CNA's activities in monitoring, reviewing, and evaluating an NPA's determination and documentation of whether individuals are eligible to be participating employees, and a CNA's provision of technical assistance to an NPA to meet its obligations in this area, meet the quality expectations of the Commission.
- iii. Conducts inspections of NPAs as determined necessary.

(b) The CNA:

- i. Establishes a process to monitor, review, and evaluate an NPA's determination and documentation of whether individuals are eligible to be participating employees.
- ii. Provides technical assistance to NPAs to properly determine and document whether an individual is eligible to be a participating employee.
- iii. Provides data to the Commission regarding the NPAs' determinations and documentation of whether individuals are eligible to be participating employees. The data must be provided in an electronic format that the Commission can directly and fully access.

(c) The NPA:

- i. Establishes and implements a system for determining and documenting an individual's eligibility to be a participating employee.
- ii. Establishes quality assurance measures that prevent and detect defective determinations or documentations; corrects such defects in a timely manner; and conducts recommended quality audits of records.
- iii. Establishes a record-keeping system for all documentation necessary to determine whether individuals are eligible to be participating employees.
- iv. Transmits requested data in the required format to the CNAs.
- v. Participates in all required education and training programs offered by the CNA or the Commission.

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6. POLICY.

(a) In General:

- i. The AbilityOne Program exists to create and enhance employment opportunities for individuals who are blind and/or have significant disabilities. Through sound documentation, the NPAs ensure that the Program continues to be a source of opportunity to those individuals who are eligible to participate in the Program.
- ii. Several government agencies have an obligation to determine whether individuals with disabilities are eligible for the financial benefits and/or services provided by such government agencies. For purposes of efficiency in government, and as a matter of respect for the work of other government agencies, the Commission will accept certifications from the government agencies designated in this policy to the maximum extent possible.

(b) Full Eligibility:

- i. The following documents are sufficient to establish eligibility as a participating employee:
 - a. Documentation from the Social Security Administration (SSA) that the individual is receiving Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) or is eligible to receive such benefits. The documentation does not require a signature.
 - b. Documentation from the relevant state agency or a state designee that the individual is receiving Home and Community-Based Services (HCBS) under Medicaid based on their disability or is eligible to receive such benefits based on their disability. The documentation does not require a signature.
 - c. The government certifications listed above must have been issued within one (1) year of the participating employee's entry into the Program. The NPA must collect a new version of the government certification from the participating employee every seven (7) years, unless the disability (or combination of disabilities) providing the basis for eligibility is considered by the NPA to be a permanent disability.

(c) Medical Documentation:

- i. Department of Veterans Affairs
 - a. Documentation from the Department of Veterans Affairs (VA) indicating that the individual is receiving benefits under the disability compensation system will be sufficient medical documentation of disability, if the document identifies the particular disability and is issued within one (1) year of this policy's Section 6(d) eligibility evaluation. The documentation does not require a signature.

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- b. The NPA must collect a new version of the VA documentation from the participating employee every seven (7) years, unless the disability (or combination of disabilities) providing the basis for eligibility is considered by the NPA to be a permanent disability.
- ii. Vocational Rehabilitation
 - a. Documentation from the state agency designated to provide vocational rehabilitation (VR) services indicating that qualified personnel have determined that the individual has a physical or mental disability will be sufficient medical documentation of a disability if the document identifies the particular disability and is issued within seven (7) years of this policy's Section 6(d) eligibility evaluation. The documentation does not require a signature.
 - b. The NPA must collect a new version of the VR documentation from the participating employee every seven (7) years, unless the disability (or combination of disabilities) providing the basis for eligibility is considered by the NPA to be a permanent disability.
 - iii. Secondary Education
 - a. Documentation in an individualized education program (IEP) or a section 504 plan, or a services plan for a student with a disability enrolled by their parents in a private school, stating that the student has a physical or mental disability will be sufficient medical documentation of a disability if the document identifies the particular disability, was implemented within five (5) years of the individual's graduation or exit from school, and is considered by the NPA to be a permanent disability. The documentation does not require a signature.
 - iv. Documentation from medical professionals that an individual has a disability other than blindness must meet the following requirements:
 - a. The document is a physical or digital record.
 - b. The document includes a diagnosis of a physical or mental disability.
 - c. The document identifies the qualifications of the licensed professional that made the diagnosis.
 - d. The document describes the nature of the disability (including characteristics such as: physical, cognitive, mental, sensory, developmental, emotional, or a combination of such characteristics).
 - e. The document describes the extent (permanent, temporary, partial, or total) of the disability.
 - f. The document includes the legible, full name of the qualified licensed professional; the name and address of the qualified licensed professional's practice; and contact information (email or phone number) for the qualified licensed professional or practice.
 - g. The document is signed with an electronic or ink signature.

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- h. The document is dated.
- i. The document is issued within seven (7) years of this policy's Section 6(d) eligibility evaluation, unless the disability (or combination of disabilities) providing the basis for eligibility is considered by the NPA to be a permanent disability.
- v. Documentation from a medical professional that an individual is blind must meet the following requirements:
 - a. The document is a physical or digital record.
 - b. The document includes a diagnosis that:
 - 1. The individual has a central visual acuity that does not exceed 20/200 in the better eye with correcting lenses; OR
 - 2. If the individual's visual acuity is better than 20/200, is accompanied by a measured limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees (also known as visual field test); OR
 - 3. A qualified licensed professional's explanation that a visual acuity and visual field test are both impossible and/or impractical (common examples of explanations include, but are not limited to, no light perception (NLP); presence of prosthesis (PROS); etc.).
 - c. The document includes the legible, full name of the qualified licensed professional; the name and address of the qualified licensed professional's practice; and contact information (email or phone number) for the qualified licensed professional or practice.
 - d. The document is signed with an electronic or ink signature.
 - e. The document is dated.
 - f. The document is issued within seven (7) years of the participating employee's entry into the Program, unless the disability (or combination of disabilities) providing the basis for eligibility is considered by the NPA to be a permanent disability.

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- (d) Eligibility as a Participating Employee
 - i. To determine whether an individual, except for an individual who qualifies as a result of blindness, who has the medical documentation described in Section 6(c) is eligible to be a participating employee, the NPA must make the assessment that the individual requires significant job support to overcome barriers to employment as a result of the individual's disability.

- (e) Timing of Evaluations of Disability
 - i. Section 6(d) participating employee eligibility evaluations need to occur upon employment and do not need to be repeated on a regular annual basis.
 - ii. For participating employees who do not have a permanent disability, the eligibility evaluations need to occur every seven (7) years.
 - iii. If an individual changes to a different labor position, a new Section 6(d) evaluation will not be required.

- (f) Review
 - i. Each Section 6(d) eligibility evaluation, and the underlying Section 6(c) medical documentation is subject to CNA and/or Commission review.
 - ii. An NPA shall make its records available to the CNA and/or the Commission for review, in the manner requested by the CNA and/or the Commission.

- (g) Addressing Potential Conflicts of Interest
 - i. The Commission expects that the majority of participating employees will have certifications from government agencies and that, in the absence of such certifications, the NPAs will receive documentation from independent qualified licensed professionals.
 - ii. The Commission may approve an NPA's use of medical assessments provided by qualified licensed professionals associated with the NPA when justified and verified as described in Section 7.

7. PROCEDURES.

- (a) If an NPA wishes to use medical documentation provided by medical professionals associated with the NPA (for example, as employees, contractors, or through an association with a related corporation, affiliated health care facility, or the parent company of the NPA), the NPA must provide to its designated CNA its justification for using such professionals, such as (but not limited to) facts demonstrating limited or lack of access to providers of medical or psychological services in the local community.

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- (b) The CNA shall evaluate the justification offered by the NPA and recommend to the Commission whether to approve the NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentations, including recommendations for specific safeguards to ensure objectivity in such determinations.
- (c) The Commission will evaluate the CNA’s recommendation and issue a written determination to accept or reject the NPA’s use of qualified licensed professionals associated with the NPA to provide medical documentation. The Commission may add specific safeguards to ensure objectivity in such determinations.

8. EXCEPTION TO POLICY.

None.

9. SUPERSESSION.

This Policy supersedes Commission Compliance Policies 51.407 and 51.408, both dated August 15, 2020.



APPROVED: _____
Kimberly M. Zeich
Executive Director

