

January 15, 2019

The Honorable Bobby Scott
The Honorable Mark Pocan
The Honorable Stephanie Murphy
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Scott, Representative Pocan, and Representative Murphy:

The undersigned organizations are writing regarding the introduction of the Raise the Wage Act of 2019. We want to thank you for including in the bill a phase out of the use of 14 (c) certificates under the Fair Labor Standards Act (FLSA), which currently allows certificate holders to pay workers with disabilities less than the minimum wage.

Employment of people with disabilities has long been a bi-partisan national goal. The Workforce Innovation and Opportunity Act (WIOA) of 2014 established as a priority competitive integrated employment, where people with disabilities work in mainstream jobs alongside, and are paid comparable wages to, co-workers without disabilities. WIOA furthers the goal of the Americans with Disabilities Act (ADA) to advance the economic self-sufficiency of people with disabilities.

Yet despite the clear national priority for competitive integrated employment, nearly 230,000 people with disabilities are legally paid sub-minimum wages under Section 14(c) of FLSA, largely in settings where they are segregated from their nondisabled peers and broader society. The subminimum wage creates and reinforces a life of poverty and dependency on public support.

As the Congressionally-created federal Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (“the Committee”) described in its report to Congress and the Labor Secretary:

[There is an] underlying need to amend Section 14(c) of the FLSA so that it reflects and aligns with modern federal disability policy and laws, which are based on the assumption that all individuals with disabilities are capable of, and have a right to, [competitive integrated employment]. The current widespread practice of paying workers subminimum wages, based on assumptions that people with disabilities cannot work in typical jobs, or on assumptions about the unavailability of alternative work opportunities, is antithetical to the intent of modern federal policy and law.¹

The National Council on Disability, an independent federal agency charged with advising the President, Congress, and other federal agencies regarding policies that impact people with disabilities, has repeatedly called for the elimination of sub-minimum wages under Section 14(c), including in its recent report, “National Disability Employment Policy, From the New Deal

to the Real Deal: Joining the Industries of the Future.”²

The inclusion of 14(c) in the Raise the Wage Act sends a clear message to Congress and to the public that it is no longer acceptable to pay individuals with disabilities less than the minimum wage. The undersigned organizations stand ready to assist you and your offices as this critical bill moves through Congress. The inclusion of 14(c) in the Raise the Wage Act sends a clear message to Congress and to the public that it is no longer acceptable to pay individuals with disabilities less than the minimum wage. The undersigned organizations thank you again for including in the bill provisions to end this unfair and outdated treatment of people with disabilities.

Please contact Alison Barkoff, Policy Advisor to the Collaboration to Promote Self Determination (abarkoff@cpr-us.org or 202-854-1270) or Amanda Lowe, Senior Policy Analyst at the National Disability Rights Network (amanda.lowe@ndrn.org or 202-408-9514 ext. 101) if you have any questions or to follow up on this letter.

Sincerely,

Association of People Supporting Employment First
Association of University Centers on Disabilities
Autism Society of America
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Public Representation
Collaboration to Promote Self Determination
Disability Rights & Education Defense Fund
Institute for Community Inclusion
National Association of Councils on Developmental Disabilities
National Council on Independent Living
National Disability Institute
National Disability Rights Network
National Down Syndrome Congress
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¹ https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf

² <https://ncd.gov/publications/2018/new-deal-real-deal>