



National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

May 25, 2017

The Honorable Bobby Scott
1201 Longworth House Office Building
Washington D.C. 20515

The Honorable Keith Ellison
2263 Rayburn House Office Building
Washington D.C. 20515

Dear Congressman Scott and Congressman Ellison:

As the Chair of the National Council on Disability (NCD), a non-partisan federal agency charged with making recommendations to the President and Congress to promote the policies, programs, practices, and procedures that advance equality of opportunity for all individuals with disabilities, I write to applaud your decision to include provisions phasing out the use and availability of 14(c) waivers as a part of the "Raise the Wage" Act.

In 2012, NCD published our "Subminimum Wage and Supported Employment" report¹, which recommended a systems change approach to phasing out the 14(c) program of the Fair Labor Standards Act, which currently allows employers who have received a waiver from the Department of Labor to compensate workers with disabilities at a rate less than the minimum wage.

Our 2012 report followed a thorough review of national research on sub-minimum wage employment, including "sheltered workshops," as well as site visits across the country to seek out the views and experiences of workers with disabilities, family members, workshop operators, supported employment providers, and policymakers. After this thorough investigation and review of relevant research conducted by GAO and others, the Council found that:

- Sheltered workshops are ineffective at transitioning individuals with disabilities to integrated employment;
- Only around 5% of sheltered workshops employees left to take a job in the community, although workshops are supposed to be a time-limited path to competitive employment;

¹ Available from: <https://www.ncd.gov/publications/2012/August232012>

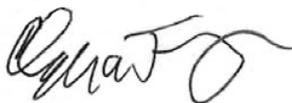
- There is no higher rate of employment for individuals who undergo “training” in a sheltered workshop versus individuals who go directly into supported employment;
- 95% of all workers with disabilities being paid less than minimum wage under the 14(c) program were employed by sheltered workshops; and
- Employees receiving supported employment services generate lower cumulative costs than employees receiving sheltered workshop services, and the cost-trend of supported employees shifts downward over time, while the opposite is the case for individuals receiving services in sheltered workshops.

Based on these findings, the Council concluded that the use of 14(c) waivers is a policy relic of the past that should be phased out. Since the time that 14(c) waivers were included as part of 1930s New Deal legislation that created the minimum wage, our societal attitudes toward people with disabilities and our national policies regarding people with disabilities have evolved. As the Americans with Disabilities Act makes clear, our national policy is to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Since publication of our 2012 report, the elimination of 14(c) waivers has become a rare point of bipartisan agreement, with numerous pieces of legislation offered by legislators from both major parties mandating an end this outdated policy, including the recent re-introduction of H.R. 188 the “Transitioning to Integrated and Meaningful Employment Act” (TIME Act) by Rep. Harper (R-MS), along with a number of co-sponsors from both parties. NCD recognizes that the phase out of 14(c) waivers, like the proposed provision of the “Raise the Wage Act,” is an important starting point in the necessary evolution of employment policy for people with disabilities. 14(c) phase-out must be accompanied by the development of a comprehensive system of employment support that will result in greater opportunities for people with disabilities.

We look forward to working with the sponsors of this bill and other policymakers to ensure the transition to a national policy that that better aligns with our values as a society, and the successful transition to integrated employment at a fair wage for individuals who are currently working for a subminimum wage under a 14(c) waiver.

Respectfully,

A handwritten signature in black ink, appearing to read "Clyde Terry". The signature is fluid and cursive, with a large initial "C" and "T".

Clyde Terry, Chair