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*Equity, Opportunity, and Inclusion for People with Disabilities since 1975*

May 17, 2017

Senator Patty Murray  
Senator Bernie Sanders  
Representative Bobby Scott  
Representative Keith Ellison  
*Via Electronic Mail*

Dear Senator Murray, Senator Sanders, Representative Scott, and Representative Ellison,

TASH, Inc. wants to express its strong and enthusiastic support for the Raise the Wage Act. TASH is an international advocacy organization that was founded in 1975 to provide a voice for individuals with the most significant disabilities across the life span. Our membership is comprised of over 1,200 members and includes self-advocates, family members, professionals and other advocates. For over 40 years, we have advocated for the full participation of individuals with significant disabilities in all aspects of our society. This, by necessity, includes the ability to achieve economic equity in the form of competitive integrated employment.

The Raise the Wage Act addresses TASH's first and foremost concern; an erroneous presumption that individuals with disabilities cannot be as productive as their non-disabled counterparts and therefore can be paid less than the prevailing minimum wage. However, research study after research study has shown, when given customized supports for securing and maintaining employment, these individuals effectively perform labor that is fairly compensated at or above the current prevailing minimum wage.

As the Congressionally-created federal Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities ("the Committee") described in its recent 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.<sup>1</sup>

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<sup>1</sup> Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, Final Report to Thomas E. Perez U.S. Sec. of Labor, The United States Senate Committee on Health, Education, Labor and Pensions, and The United States House of Representatives Committee on Education and the Workforce (Sept. 15, 2016), available at [https://www.dol.gov/odep/topics/pdf/ACICIEID\\_Final\\_Report\\_9-8-16.pdf](https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf), at 28.

The Committee recommended that Congress “amend Section 14(c) of the FLSA to allow for a well-designed, multi-year phase out.”<sup>2</sup> The Raise the Wage Act will do exactly that.

Sadly, individual with significant disabilities continue to experience the lowest employment rate in the country. When employed, they also receive the lowest aggregate wages, largely due to their employers' reliance on Section 14c of the Fair Labor Standards Act (FLSA). Further, due rulings by the National Labor Review Board, these disabled individuals are not afforded the same labor protections as their non-disabled counterparts. Other longstanding problems with the implementation of the Section 14c provision are well documented in the 11 investigations and studies that have been carried out under the auspices of various departments of the Federal Government. These include issues with individual wage determination, issues with the lack of wage growth, and issues with administration and oversight.<sup>3</sup>

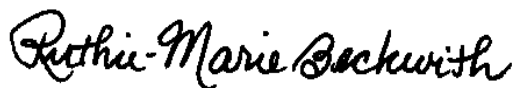
Issues associated with individual wage determination have routinely led to decisions that disabled employees were due back wages in cases such as *Majors, Steward, and Felton v. Seneca Re-Ad Industries Inc.* (Seneca County Common Pleas Court, Tiffin, Ohio, 2016) and more notoriously, in *EEOC v. Hill Country Farms (d/b/a Henry's Service Corp.)* (S.D. Iowa 2013).

Issues associated with the lack of wage growth show have only become more profound since the passage of the Fair Labor Standards Act. In 1938, a survey of 91 sheltered workshop employers by the National Sheltered Workshop Committee found the average wage paid to their employees to be \$.24 an hour--only one penny less than the initial \$.25 per hour initial minimum wage that was established by the Fair Labor Standards Act. Almost 70 years later, the National Core Indicators report found that the average wages paid under the Section 14c provision was \$1.36 per hour compared to then minimum wage of \$5.85 per hour--**an overall percentage drop from 98% to 23%**.<sup>4</sup>

Finally, issues associated with administration and oversight were repeatedly noted in four of the investigative reports issued since 1976. Most notably, the 2001 Audit report issued by the Department of Labor's Office of the Inspector General noted that the Wage and Hour Division's data management system was so unreliable that "annual statistical data could not be validated."<sup>5</sup>

TASH looks forward to working with you on the Raise the Wage Act and hopefully other efforts to help increase opportunities for competitive integrated employment for people with disabilities. We can be reached at (202) 429-2080.

Sincerely,



Ruthie-Marie Beckwith, Ph.D.  
Executive Director

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<sup>2</sup> *Id.* at 29.

<sup>3</sup> Beckwith, Ruthie-Marie. *Disability Servitude: From Peonage to Poverty*. Springer, 2016. at 87

<sup>4</sup> *Id.* at 105-106.

<sup>5</sup> *Id.* at 96.

