

NATIONAL
DISABILITY RIGHTS
NETWORK



Protection & Advocacy for Individuals with Disabilities

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:

As the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) systems and Client Assistance Programs (CAP) for people with disabilities, the National Disability Rights Network (NDRN) writes to thank you for the introduction of the “Raise the Wage Act”. An increase in the minimum wage is long overdue and will have a positive impact for those individuals with disabilities who are employed.

We are especially pleased with the inclusion of a phase out of the subminimum wage for individuals with disabilities currently allowed under Section 14(c) of the Fair Labor Standards Act in this legislation. As you know, the practice of paying individuals with disabilities subminimum wage is a relic from the Fair Labor Standards Act (FLSA) passed in 1938 – a holdover which is now recognized as discriminatory, archaic, and in direct conflict with other exiting federal statutes and initiatives.

Unfortunately, the use of subminimum wages for people with disabilities remains prevalent. Despite federal recognition of the importance and value of people with disabilities by the Americans with Disabilities Act and the integration principles found in *Olmstead v. L.C.*, 527 U.S. 581 (1999), people with disabilities are still paid less than minimum wage even when they are more productive than people without disabilities. The subminimum wage creates and reinforces a life of poverty and dependency on public support.

NDRN has long supported the end of subminimum wage for people with disabilities. P&A and CAP agencies encounter many people with disabilities around the country who want an opportunity to work at a competitive wage, but unfortunately, have ended up in positions only earning dollars or even pennies by the hour.

NDRN has issued two reports on the subminimum wage: [“Segregated and Exploited: A Call to Action”](#) and [“Beyond Segregated and Exploited.”](#)

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.ⁱ

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.”ⁱⁱ

NDRN applauds you for your leadership in introducing the Raise the Wage Act which will result in a long overdue increase in the minimum wage, and as importantly the phase out of subminimum wages paid to individuals with disabilities. We see the pairing of these provisions in the Raise the Wage Act as an important and historic step in acknowledging the inherent worth of all individuals, including individuals with disabilities, in both the workplace and in society as a whole. NDRN stands ready to assist you in this move towards justice and equality.

Should you have any questions, please do not hesitate to contact Amanda Lowe, Senior Public Policy Analyst at Amanda.lowe@ndrn.org or at 202-408-9514, ext. 101.

Sincerely,



Curt Decker
Executive Director

ⁱ https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf

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