

November 8, 2023

Dear Acting Secretary Julie Su, Principal Deputy Administrator Looman, Assistant Secretary Williams, Assistant Secretary Nayak, and Solicitor Nanda:

We greatly appreciate the effort the Department of Labor (DOL) is making to examine the future viability of 14(c). As organizations focused on advancing disability rights and employment, we were glad to speak with agency leadership regarding our positions on 14(c) and want to again express our shared opinion that this discriminatory practice must end with no exceptions. Employees with disabilities deserve fair pay for their work. We have detailed many of the reasons we support ending the payment of subminimum wages to people with disabilities and believe that this practice can end while workers currently employed under 14(c) certificates can continue being employed. Further, attached to this letter is an addendum that contains all of the remarks expressed by self-advocates with direct experience with 14(c) as well as the organization representatives at the recent listening session hosted by DOL.

Continued use of 14(c) is inconsistent with the civil rights guaranteed to people with disabilities in the US.

The use of subminimum wage to employ people with disabilities began almost 90 years ago at a point in time when our economy, job market, and civil rights landscape for people with disabilities looked very different. In the time since the establishment of 14(c), we have seen the passage of the Rehabilitation Act (Rehab Act), the Developmental Disabilities Act, the Americans with Disabilities Act (ADA), and the Workforce Innovation and Opportunity Act (WIOA), all of which establish civil rights and employment protections for people with disabilities. Continued use of 14(c) is inconsistent with current federal public policy goals to promote economic self-sufficiency, independent living, and community inclusion for people with disabilities. It carved out an exception to the ADA and the Rehab Act that is not supported by the language of the statutes or the case law, especially following the passage of WIOA in 2014.

Subminimum wage programs are also inconsistent with DOL's own efforts to ensure that everyone has an opportunity to get a good job as there is a clear and unmistakable pattern of non-compliance with existing labor law. The Government Accountability Office's 2023 report concluded that the U.S. DOL found Fair Labor Standards Act special minimum wage law violations in about two-thirds of its investigations into 14(c) employers over nearly 10 years (FY 2012-FY 2021) and concluded that this equated to over \$15 million in back wages owed to more than 73,500 workers.

14(c) is demeaning towards people with disabilities and does not result in greater choices for workers.

Disabled employees who have worked in 14(c) settings reported feeling depressed, humiliated, dehumanized, and like their employers did not trust them. While many purport that 14(c) offers people with disabilities choice in their work setting, many disabled people have chosen to leave sheltered workshops to pursue jobs earning at least minimum wage which allows them to be more economically self-sufficient. Further, many workers are not given a choice when it comes to their placement setting and are frequently placed in jobs they have little interest in and do not enjoy. [Data shows that disabled workers employed via 14\(c\) certificates have limited choices as they are not given opportunities to advance or change their job and remain in the same job for decades.](#) In addition to low wages and minimal advancement, multiple studies have revealed gaps in health care, abuse, and financial exploitation. Continuing this program perpetuates the discriminatory practice and false stereotypes that people with disabilities are not capable of fully participating in not only the labor market but their communities as a whole.

14(c) reduces opportunities for disability employment, and resources used toward the program should be focused in other ways.

The continued usage of 14(c) is not a means to that end and takes away precious resources we need to achieve our shared goals. The Fair Labor Standards Act does not mandate that DOL issue 14(c) certificates and only permits it to do so to prevent curtailment of opportunities for employment. Extensive evidence shows that 14(c) is not needed for this purpose anymore and, in fact, is causing the curtailment of competitive integrated employment opportunities, contrary to the stated goals of 14(c) and the WIOA. The “train-then-place” model has been demonstrated not to work. Our vocational rehab and developmental disability systems pay to support people with disabilities and, if they’re all in subminimum-wage jobs, that’s where the money goes – instead of going toward other options.

There are many proven strategies to promote successful, competitive integrated employment, and the Department of Labor should continue to advance these strategies in every community across the United States. Yet, individuals with disabilities and their families are often told that there are no other options available to them and are often pressured by public systems and service provider agencies to enter into this option which often has little relationship with an individual’s ability. The existence of discrimination does not justify further discrimination.

Instead, this indicates a need to increase resources towards customized and supported employment, job carving, and other proven practices that allow practitioners to do a better job matching people with disabilities with jobs they want so that they can be productive and achieve their dreams. Many cite the need for community as a reason to maintain the use of 14(c), and **we must insist that community and purpose can be achieved without exploitation.** Increased federal and state dollars should be invested in self-advocacy and peer support groups. Centers for Independent Living (CILs) have played a vital role in assisting consumers with diverse

disabilities in transitioning into competitive integrated employment. Employment support can be woven into all 5 core services that CILs are mandated to provide and CILs have demonstrated success in providing both job coaching and training and also the independent living skills training and supports necessary to maintain employment

Many proponents of 14(c) state that workers cannot earn more because they will lose access to needed benefits. Many resources exist that allow individuals on public benefits to earn an income and maintain their benefits. These include ABLE accounts and Medicaid buy-in programs. ABLE accounts allow individuals with disabilities to save up to \$100,000 and NOT have their Supplemental Security Income (SSI) affected, and any amount of ABLE savings up to the plan limit, which can be between \$235,000 – \$550,000 depending on the plan, will NOT affect eligibility for Social Security Disability Insurance, housing assistance, Supplemental Nutrition and Assistance Program, Free Application for Federal Student Aid (FAFSA), Medicare Parts A, B, C, or D, Medicare Savings Programs, and Extra Help, or any type of Medicaid benefit including Medicaid waiver services. Medicaid buy-in programs allow disabled people who receive Medicaid to continue working. While each state's program differs, some states like Maryland, have removed any income limits on their state's buy-in program. The DOL should work to increase awareness and use of ABLE accounts and to increase income thresholds for Medicaid buy-in programs.

The use of 14(c) is already on the decline.

When we met with DOL leadership, 15 states had outlawed the use of subminimum wage for workers with disabilities. In the two weeks since our meeting, [Colorado completed its phase-out of 14\(c\) certificates two years earlier than expected](#). Further, there are three states where 14(c) remains on the books, but currently, no workers are employed on a certificate. Between 2010-2019, the number of 14(c) workers fell from 296,000 to 122,000. Certificate holders dropped from 3,117 to 1,567. Since 2018, the number of subminimum wage programs has decreased by 64%, and the number of subminimum wage jobs held by people with disabilities has decreased by 69% as community rehabilitation providers have shifted their approaches toward supporting competitive integrated employment actually desired by people with disabilities. DOL Wage and Hour data from July 2023 show 827 active certificates serving 44,434 individuals. Of note: this is actually an increase from July 2022: 690/36,978 - while some of this is explained by pending certificate status, the reality is that there continue to be NEW certificates issued despite the national trend away from the use of 14(c) and a Biden campaign promise to end the program.

States like Illinois are in the throes of passing the [Dignity in Pay Act](#), which would phase out 14(c) statewide within five years and provide incentives for providers to shift their models. Advocacy for this legislation has included providers who have transitioned their model, and advocates hope that the state will follow the trend already evident within its borders as the state

of Illinois has already banned subminimum wage in their state contracting, and the City of Chicago has already phased out the use of 14(c).

The U.S. Ability One program ceased the use of 14(c) certificates as of September of 2023, and within the National Industries for Blind network out of a workforce of more than 5,000 people who are blind, there are fewer than 10 people being paid subminimum wages on non-AbilityOne contracts. Their leadership has communicated that this is 10 too many, and NIB has a goal of eliminating the practice altogether within their network.

There is broad consensus to end 14(c).

Disability rights organizations have opposed the payment of subminimum wages almost as long as the program has been in place, and for decades the broad and diverse disability rights community has been united on the urgent need to end the 14(c) certificate program so that workers with disabilities can be paid the same standard wages as everyone else. Not only is the disability rights community unified on this issue, labor unions, such as the SEIU, as well as major employers like Microsoft and JP Morgan Chase, have taken strong public positions against 14(c). It is truly a rare occasion that labor unions, large corporations, and disability rights organizations align so closely on an issue and agree on the measures that should be taken to address it.

14(c) is a wage issue. Eliminating 14(c) simply means that everyone has access to the Federal minimum wage and ends the discriminatory practice of singling out people with disabilities as not capable/competent to fully participate in the labor market. Within the context of 1938, 14(c) was innovative and created pathways into the workforce for many people with disabilities. However, the program was intended to be rehabilitative in nature, and was not created with the intent to create a sub-wage industry for disabled people.

We know that a successful 14(c) phase-out requires time and resources to ensure that people with disabilities have the opportunity to successfully transition to their next step - whether that is to competitive integrated employment or to some other pre-employment or support service.

The continued use of 14(c) is not aligned with the Biden Administration's priorities of driving diversity, equity, inclusion, and accessibility throughout our government and society, nor the Administration's efforts to advance worker rights and economic opportunity for all Americans. As mentioned in this letter, there are numerous practices that the Department of Labor can continue to support that would end the payment of subminimum wages and allow employees with disabilities to continue working.

Our organizations stand ready to provide the Department with any further assistance or information, and we look forward to working together to support our shared goals of increasing disability employment and economic self-sufficiency.

Sincerely,

Access Living

American Association of People with Disabilities

American Association of Intellectual and Developmental Disabilities

American Council of the Blind

American Foundation for the Blind

Association of People Supporting Employment First

Autistic Self Advocacy Network

Association of University Centers on Disabilities

Autism Society

Bazelon Center for Mental Health Law

Brain Injury Association of America

Disability Rights Education and Defense Fund

National Alliance on Mental Illness

National Association of Councils on Developmental Disabilities

National Association of the Deaf

National Council on Independent Living

National Disability Rights Network

National Down Syndrome Congress

National Down Syndrome Society

National Federation of the Blind

National Industries for the Blind

National Organization on Disability

Self Advocates Becoming Empowered

TASH

Remarks from Organizations at Department of Labor 14(c) Listening Session

Erin Prangley - Director of Public Policy, National Association of Councils on Developmental Disabilities

I'm Erin Prangley from the National Association of Councils on Developmental Disabilities. All 56 state councils on developmental disabilities, a majority of members being people with IDD or their families, advocate for ending 14(c) at the earliest possible time since this is an outdated program which discriminates against people with IDD who deserve fair pay for their work. DOL can do more – it can stop issuing 14(c) certificates and update their 504 regulations to reflect this practice is outdated and discriminatory. NACDD will submit additional written comments. Thank you. Now I'll turn it over to David Pinno and Donna Spears, state DD Council representatives who have both worked for subminimum wage. Thank you.

David Pinno - Former 14(c) Worker from Wisconsin

I'm David Pinno. I worked in a sheltered workshop from 2003-2011 in Wisconsin. I was paid \$4.28 per hour while at the sheltered workshop. Other people did the same work and got paid minimum wage – a lot more than me. I felt worthless and I was often retaliated against for speaking my mind. I chose to leave the sheltered workshop and pursue work. I ended up working two jobs for \$13 per hour at McDonald's and Goodwill. I would never have been able to be independent and own my own home if I had remained stuck in 14(c) just because of my disability. 14(c) is wrong and needs to end.

Donna Spears - Former 14(c) Worker from Louisiana

I'm Donna Spears. Working for less than minimum wage took away my dignity. I worked in Louisiana at a 14(c) sheltered workshop. I worked as a secretary doing hard administrative work for only 45 cents an hour (about 38 dollars a month). I was humiliated when I learned that other workers were paid much more than me for the same work. Worse, some of these people got credit for projects I completed. I decided to leave the sheltered workshop because I knew I could do better. I went back to school and now have two degrees in Psychology. I now work for a fair wage helping people with IDD advocate for themselves. 14(c) has to end. It is wrong because it takes away from the dignity of work and exploits people like me.

Liz Weintraub - Former 14(c) Worker from Maryland and Senior Advocacy Specialist, Association of University Centers on Disabilities

Hello, My name is Liz Weintraub and I work at the Association of University Centers on Disabilities. AUUCD has 140 programs based at universities in every state and territory and many of our members conduct research on education, transition from school to work, and how to improve employment.

When I was around 25, I was told I would work in flowers in a greenhouse making subminimum wage. I didn't even know how much money I was making. I hated working with flowers. Don't

give me a plant as a gift. I knew I wanted to work in policy because my family would talk about policy around the dinner table. Thirty years later, and I am a policy advocate at AUCD. I have testified in front of Congress and worked in a Senate office. People thought that I could never do this.

The ADA promised me equal opportunities. So many people making subminimum wage cannot go out and be part of their community. They cannot afford to pay rent or to buy a meal.

People without disabilities are matched with jobs that they enjoy. People with disabilities in subminimum wage are not given a choice of the actual job they will do because it is decided by the workshop and what contracts they have so people with disabilities making subminimum wage are not given meaningful days, like me working in the greenhouse. The provider tells them what their job will be. We need to do a better job matching people with disabilities with jobs they want to do and we need to support everyone's hopes and dreams, so they are able to be productive. No one tells a person without a disability that if they have a less productive day that they are going to make less than minimum wage. We need to end 14(c) so everyone can make minimum wage.

Kim Musheno - Vice President of Public Policy, Autism Society

Section 14(c) of the Fair Labor Standards Act (FLSA), passed 1938, allows public and private employers to obtain special certificates from the Department of Labor's Wage & Hour Division that allow them to compensate workers with significant disabilities at rates below the current federal minimum wage based on the individual's level of measured productivity.

This results in a disproportionate number of individuals with intellectual and developmental disabilities being automatically placed into a subminimum wage position, usually in segregated facilities after exiting the public school system.

Individuals with disabilities and their families are often told that there are no other options available to them, and are often pressured by public systems and service provider agencies to enter into this option and often has little relationship with an individual's ability.

Most subminimum wage jobs are in sheltered workshops, not integrated settings. The Certificates are basically subsidies for these segregated settings. These workshops become terminal places of employment when they are supposed to act as transitional employment to train individuals. [As few as 5% of workers transition into employment in the community](#). They do a poor job providing any independent living or real world job skills.

With laws centered around community inclusion and competitive integrated employment like the Rehab Act, ADA, DD Act, Olmstead, and WIOA, Section 14(c) is incompatible with current law and with the expectations of people with disabilities.

A recent Drexel University Study showed that 99% of people with Autism are not receiving any public employment supports. We need to end the use of 14(c) and focus on providing employment supports to all who need them and use customized employment and other best practices.

Chaqueta Stuckey - Former 14(c) Worker from South Carolina, Self Advocates Becoming Empowered Board Member

As a SABE board member, it has been our position and call to end sub-minimum wages. We have been prepared enough. Get us real jobs and close the sheltered workshops.

So stop the government from issuing new certificates, we don't need to have a certificate that traps us into sheltered workshop pay rules. Don't allow the easy way out for people.....we want equal pay and jobs for all people.

I am from South Carolina and have been paid subminimum wages. I have worked hard as an associate doing subcontracted work for a local company. It made me feel like the supervisors did not believe I could be trusted to do the work like a person without IDD. My independence of believing in myself and self-esteem went as low as it goes. I was depressed around not being able to gain a level of confidence because others have me labeled and do not treat me fair around pay....that is why the certificate sucks and does not support people in the right way.

On behalf of SABE, we have always expressed people should be paid minimum wages or more. Subminimum wage is like "chicken feed" because they use us for cheap labor by taking advantage of our disability. It is a disgrace to people with IDD.

In the self-advocacy movement, there is a position statement called "Just Do It".....which is the centerpiece for SABE. So I say to the Department of Labor and those involved with the power to change.... Just Do It.....stop subminimum wage certificates for sheltered workshop..... Just Do It.....!

David Hutt - Deputy Executive Director of Legal Services and General Counsel, National Disability Rights Network

In addition to low wages, minimal advancement, gaps in health care, abuse and financial exploitation, there is a clear and unmistakable pattern of non-compliance with existing law. The GAO's 2023 report concluded that the U.S. DOL found FLSA special minimum wage law violations in about two-thirds of its investigations into 14(c) employers over nearly the course of 10 years (FY 2012-FY 2021) and concluded that this equated to over \$15 million in back wages

owed to more than 73,500 workers. One example of private litigation efforts to address back pay issues, among a number of other interrelated issues, is *Steward v. Roppe*.

The 14(c) program has not been successful at preparing workers for CIE; instead it has resulted in workers being stuck in segregated, low pay, low hour positions. And, there are many successful transformative practices that can build employer and employee capacity to facilitate CIE and avoid the concerns raised by 14(c) proponents.

Michael Brogioli - Executive Director, TASH

A moratorium on issuing 14(c) certificates would be consistent with the broader, positive trends as noted in a recent report prepared by NDRN for the Disability Employment Technical Assistance Center (DETAC) that TASH is a key partner on:

The number of 14(c) workers fell from 296,000 to 122,000 from 2010-2019. Certificate holders dropped from 3,117 to 1,567. A growing number of states have or are working to phase out or eliminate the 14(c) program, via legislation or executive order. The bipartisan Transformation to Competitive Integrated Employment Act seeks to stop the issuance of new certificates and would begin a four year phase out plan for existing certificates.

Clark Rachfal - Director of Advocacy & Public Affairs, American Council of the Blind

The American Council of the Blind and our nationwide membership has been opposed to subminimum wages since 1979, and reaffirmed this position in 2013 & 2014. This practice is not in-line with our morals as a nation and the Administration's priorities of driving Diversity, Equity, Inclusion, and Accessibility throughout our government and society. DOL and the Administration must close the subminimum wage chapter of American history and ensure that people with disabilities have the necessary home and community based services, independent living services, and vocational rehabilitation services to live and work as valued and included members of our communities.

Avery Outlaw - Deputy Executive Director, Autistic Self Advocacy Network

I'm the Deputy Executive Director of the Autistic Self Advocacy Network, and we call on the Department of Labor to end subminimum wage for people with disabilities. We have seen over and over again that people with intellectual and developmental disabilities can work and thrive in competitive integrated employment. It is frankly discriminatory and dehumanizing to pay workers with disabilities less than minimum wage. Our community needs the supports and accommodations we are entitled to by the ADA and other disability legislation, not to be siloed and paid pennies on the dollar. These practices contribute to the higher rates of poverty for people with intellectual and developmental disabilities, and investigations into 14(c) certificate holders have repeatedly found unpaid wages and violations of the FLSA. The 2023 GAO report found that most workers were paid \$3.50 or less and that there were 15 million dollars of back wages owed to workers. 15 states have already completely banned subminimum wage for disabled workers, and three more do not have any active or pending 14(c) waivers. We have been

glad to see the decrease in workers subject to subminimum wage over the past years, but that is no substitute for a complete end to the 14(c) program. 2023 Wage and Hour data indicates that less than 50,000 people are paid subminimum wage from active 14(c) holders, testifying to the hundreds of thousands of people with intellectual and developmental disabilities that are working jobs in the community paying real wages. The continuation of 14(c) blocks people with developmental disabilities from accessing competitive integrated employment. We appreciate DOL's attention to this issue and ask that the agency take action to end the 14(c) program.

Nicole Leblanc - Former 14(c) Worker from New Hampshire

Presume Employability. No one is too disabled to live and work in the community.

To deal with the loneliness that comes with closing sheltered work settings, we must invest federal/state dollars in self advocacy, peer support, give Self advocacy orgs their own line item in budget just like Centers for Independent Living, and the Developmental Disabilities Council Network.

Embrace Job Carving, Customer Focused Job development. Abolish asset and earnings caps in SSI SSDI, Medicaid. MD Medicaid buy in has NO earnings or real asset limit. Allow people with disabilities to earn and save as much as they want.

Move SSDI to \$1 for \$2, or just have SSDI be universal basic income. Being disabled is expensive as COVID has shown us coming from the autism world where people with ASD are at high risk of complications. We must expand Work Incentives and end the practice of issuing overpayments.

To support people in getting out of 14(c) sheltered workshops and enclaves, get benefits counselors to show people with disabilities how much they can make over 10 years at minimum wage of \$10-15 an hour. VR can give money to support peer run employment support groups

Fear of losing benefits is a big factor that stops parents and providers from allowing people with disabilities to work. If an agency is a rep payee or parent they often don't want to lose the SSI/SSDI and have to ask client X for 500 in rent to make up for loss of SSI/SSDI. VR Must provide long term job coaching. People with autism have some of the lowest rates of unsuccessful closure outcomes due to no job coach. This is especially true if you are like me and don't get HCBS. You fall through the cracks and have to rely on natural support.

Get benefits counselors to show people with disabilities how much they can make over 10 years at Minimum wage. Start with people who really want to get out first and try something new.

Sheltered workshops and 14(c) is not person centered. When we say competitive integrative employment we don't mean "oh everyone w/ I/DD must work 40 hrs". CIE can be 8-25+ hours a week. Just look at the gig economy.

Embrace customer focused job development. People with disabilities are safer working in the community than in segregated settings. CIE is better for our mental health. People who work real jobs with real pay have better mental health. The greater amount of self determination someone has, the better off their mental health will be.

Eliminating benefit cliffs will reduce anxiety when it comes to CIE. Expand IRWE. Embrace the SSDI subsidy and special conditions that allow people with disabilities to keep SSDI. Adopt a disabled worker tax credit to deal with the high cost of being disabled.

Maggie Nygren - Executive Director & CEO, American Association on Intellectual and Developmental Disabilities

Thank you for the opportunity to speak today. I am Dr. Margaret Nygren of the American Association on Intellectual and Developmental Disabilities (AAIDD). I would urge the DOL to cease authorizing subminimum wage programs for people with disabilities.

The 14(c) program, first established in 1938, authorizes subminimum wage programs that are *inconsistent with current* federal public policy goals to promote economic self-sufficiency, independent living, and community inclusion for people with disabilities. Subminimum wage programs are also inconsistent with DOL's own efforts to ensure that everyone has an opportunity to get a *good* job.

Even with updates to the program to ensure career counseling and vocational rehabilitation supports, subminimum wage programs have not provided a meaningful pathway to competitive employment for people with disabilities. A study by the National Council on Disability found that less than 5% of people with disabilities employed in subminimum wage programs transitioned to competitive employment.

The demand for subminimum wage programs has dwindled. Since 2018, the numbers of subminimum wage programs has decreased by 64% and the number of subminimum wage jobs held by people with disabilities has decreased by 69% as community rehabilitation providers have shifted their approaches toward supporting competitive integrated employment actually desired by people with disabilities.

Thank you for your time.

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Megan Schuller - Legal Director, Bazelon Center for Mental Health Law

I am the Legal Director of the Bazelon Center for Mental Health Law. We echo the call for the Department of Labor to end the use of 14(c).

50 years after passage of the Rehabilitation Act and 33 years after passage of the ADA discrimination persists.

One troubling example of this is the subminimum wage for workers with disabilities. Paying a protected class of individuals less than what is the bare minimum for everyone else is straightforward discrimination and sends the message that people with disabilities are second-class citizens, less deserving of equal pay, equal rights, and equal opportunities.

It carves out an exception to the ADA and the Rehab Act that is not supported by the language of the statutes or the case law, especially following the WIOA in 2014. And what is worse, it is facilitated and supported by the federal government.

We all know this is wrong, and I think we all share the goals of providing more and better employment opportunities for people with disabilities. But the continued usage of 14(c) is not a means to that end and takes away precious resources we need to achieve our shared goals.

The FLSA does not mandate that DOL issue 14(c) certificates and only permits it to do so to prevent curtailment of opportunities for employment. But extensive evidence shows that 14(c) is not needed for this purpose anymore and, in fact, is causing the curtailment of competitive integrated employment opportunities, contrary to the stated goals of 14(c) and the WIOA.

The “train-then-place” model has been demonstrated not to work. Our vocational rehab and developmental disability systems pay to support people with disabilities and, if they’re all in subminimum-wage jobs, that’s where the money goes – bankrupting other options.

As we now know, most people never leave their subminimum wage jobs, because there is no incentive for the employers to transition them out – they’re making good money off of cheap labor. Some CEOs are making close to 7 figures while their employees make subminimum wage. Not only is this wrong; it is further support for why DOL can and must end this program. If helpful, we all welcome the opportunity to discuss further how to do so.

Jessica Podesva - Director of Advocacy and Public Policy, National Council on Independent Living

Hi my name is Jessica Podesva and I am the Director of Advocacy and Public Policy at the National Council on Independent Living. The National Council on Independent Living is the longest-running national cross-disability, grassroots organization run by and for people with disabilities. NCIL’s position is that the practice of paying people with disabilities subminimum wage needs to end with no exceptions. Continuing this program perpetuates the discriminatory practice and stereotypes that PWDS are not capable to fully participate in not only the labor market but their communities as a whole.

Since their inception Centers for Independent Living have played a vital role in assisting consumers with diverse disabilities in transitioning into competitive integrated employment. Employment support can be woven into all 5 core services that CILs are mandated to provide and CILs have a demonstrated success providing both job coaching and training and also the independent living skills training and supports necessary to maintain the employment. We will have some of these consumers attending the public listening session next week who you will hear from then.

Several CILs have also played critical roles in assisting the phase out of this practice in their states a couple of examples are South Carolina and Illinois who you will hear from shortly. NCIL echos all the advocates who you have heard from previously and encourage DOL to end this discriminatory program with no exceptions.

Amber Smock - Vice President of Advocacy, Access Living

My name is Amber Smock, and I'm the Vice President of Advocacy for Access Living. Access Living is the Center for Independent Living for the City of Chicago.

It's not 1937 any more.

Illinois is in the throes of passing the [Dignity in Pay Act](#), which would phase out 14(c) statewide within five years, with incentives for providers to shift their models. The Governor's office has this on their list as a top priority during the Illinois veto session (veto session is two weeks long, first week is next week). We are doing a rally at the Capitol Wednesday next week. The City of Chicago already phased out 14(c) through a city budget addendum through the work of our CEO Karen Tamley, who was then the Commissioner of the Mayor's Office on People with Disabilities (MOPD). The State of Illinois is already phasing out 14(c) for state use contracts. We are working in coalition with DD/self advocates and the lead statewide provider group repping providers that have done this in the past/working on shifting their models already. There is some stiff opposition from a few legislators and a couple providers/some families, but we think we have the votes—came within one vote of passing this past spring. It has taken us since 2015 to do this, and the momentum has never been higher.

Justin Young - Government Affairs Specialist, National Federation of the Blind

The National Federation of the Blind, the transformative membership and advocacy organization of blind Americans has long advocated for the elimination of Section 14C under the Fair Labor Standards Act. In 1942, the National Convention passed a resolution illustrating the organized blind movement's position officially on this topic. The National Federation of the Blind believes in the dignity of work and earning a fair wage for the work performed will accomplish this goal. Section 14C does not accomplish this and it is time this antiquated, outdated, and discriminatory practice must be abolished.

Julie Christensen - Executive Director, Director of Policy & Advocacy, Association of People Supporting Employment First

14(c) is a wage issue. Eliminating 14(c) simply means that EVERYONE has access to the Federal minimum wage and ends the discriminatory practice of singling out people with disabilities as not capable/competent to fully participate in the labor market.

Within the context of 1938, 14(c) was innovative and created pathways into the workforce for many people with disabilities. However, the program was intended to be rehabilitative in nature, and was not created with the intent to create a sub-wage industry for people with the most

significant disabilities (including people with IDD who are the predominant demographic currently served).

14(c) phase out requires time and resources to ensure that people with disabilities have the opportunity to successfully transition to their next step - whether that is to competitive integrated employment or to some other pre-employment or supports service. However, there is no reason to be issuing NEW certificates within the context of 2023 where we have so many effective and evidence-based tools at our disposal that support people with disabilities to achieve CIE.

State utilization: 15 states have passed legislation to phase out 14(c) (10 of these states passed laws since 2021); this is a growing trend and speaks to the fact that 14(c) is not necessary or desired in today's context. However, Federal intervention is needed to achieve the goal of ending the payment of subminimum wages for people with disabilities.

14(c) utilization has been on the decline for many years. The U.S. Ability One program ceased use of 14(c) certificates - as of last month, no one working on a 14(c) certificate is paid subminimum wages.

DOL W&H July 2023 report: 827 active certificates serving 44,434 individuals. Of note: this is actually an increase from July 2022: 690/36,978 - while some of this is explained by pending certificate status, the reality is that there continue to be NEW certificates issued despite the national trend away from use of 14(c) and a Biden campaign promise to end the program.

Things DOL can do now: cease issuance of new certificates - consistent with WIOA; do not renew certificates when there is evidence of noncompliance; work collaborative with Congress to explore avenues to phase out the program through regulatory means

Chapman Bryant - Policy and Advocacy Associate, National Down Syndrome Congress

Hello, my name is Chapman Bryant, Policy and Advocacy Associate for the National Down Syndrome Congress. NDSC is the country's oldest national organization for people with Down syndrome, their families, and the professionals who work with them. NDSC has publicly called for the phase out of the issuance of subminimum wage certificates while also advocating for the infrastructure and transition supports needed for increasing opportunities for competitive integrated employment so that people with Down syndrome can successfully transition into the labor market. Through this comprehensive review, we urge DOL to utilize all of its existing authority to phase out Section 14(c) of the Fair Labor Standards Act (FLSA). Being a sibling of a sister with Down syndrome, I urge the department to phase out Section 14(c) so no one with disabilities are subjected to this type of discrimination.

Maria Town - President and CEO, American Association of People with Disabilities

Hello, my name is Maria Town, and I serve as the President and CEO of the American Association of People with Disabilities, AAPD.

As a national, cross-disability organization, AAPD recognizes that the disability community is diverse, and in our work, we frequently navigate conflicting opinions within the disability community and drastically different thoughts on the best strategies and approaches to issues facing disabled people. That is not the case here. The disability rights community is united on the urgent, urgent need to end the 14(c) certificate program and the need to send a clear message that disabled people deserve to work with dignity and be paid the same standard wages as everyone else. Not only is the disability rights community unified on this issue, labor unions, such as the SEIU, as well as major employers like Microsoft and JP Morgan Chase, have taken strong public positions against 14(c). It is truly a rare occasion that labor unions, large corporations, and disability rights organizations align so closely on an issue and agree on the measures that should be taken to address it. Of course there are proponents of maintaining 14(c), who will say there will be no opportunities for people with significant disabilities if this program ends. However, the presence of discrimination does not justify further discrimination. The political and social will to end 14(c) is there, and the Biden Administration must capitalize upon it.

The Biden Administration has a strong record of advancing worker rights and economic opportunity - from new proposed rules for overtime to President Biden recently joining a picket line with striking workers. On Labor Day, the Biden Administration noted that “since the President took office, the largest wage gains over the last two years have gone to the lowest-paid workers.” This statement was not true for the thousands of workers who have spent decades making cents on the hour. Further, there will be continued harm as workers have their human and civil rights violated until this practice ends. I hope the Department of Labor will make ending 14(c) and the payment of subminimum wages a part of what will make President Biden achieve his promise of being the most pro-worker president in history.

Rick Webster - Vice President, Public Policy, National Industries for the Blind

The NIB (National Industries for the Blind) Board of Directors adopted a policy in 2009 urging our nonprofit agencies to pay at least the federal minimum wage to all employees. And this policy has been updated and strengthened over time.

They backed up that policy by denying loans, grants, any incentives, or the ability to serve on our board of directors if a nonprofit agency paid even one person subminimum wages under 14(c).

Our board also invested in rehabilitation engineers that have been operating for years and work with individual nonprofit agencies to improve productivity both in manufacturing and on service contracts.

Even a dozen years ago, only 2% of our workforce of people who are blind was paid less than the federal minimum wage, and today out of a workforce of over 5,000 people who are blind, fewer than 10 individuals are paid subminimum wages, and it's on non-AbilityOne work at a single location. We wish for that number to be ZERO.

Our nonprofit agencies stopped paying on certificate on any AbilityOne contract years before the U.S. AbilityOne Commission prohibited such a practice on AbilityOne contracts.

NIB and its sister organization, NAEPB (National Association for the Employment of People Who Are Blind), have both supported the TCIEA (Transformation to Competitive Integrated Employment Act) legislation and strongly support phase-out and elimination of 14(c).

Finally, If you ever hear anyone reporting something to the contrary about NIB and its nonprofit agencies, don't believe them. Seek out the facts, and don't believe the falsehoods. My email is rwebster@nib.org. I welcome an opportunity to discuss these issues.

Thank you very much for this opportunity to speak.