

NATIONAL
DISABILITY RIGHTS
NETWORK

Protection & Advocacy for Individuals with Disabilities



January 26, 2019

Senator Robert "Bob" Casey
393 Russell Senate Office Building
Washington, D.C. 20510

Chairman Bobby Scott
2176 Rayburn House Office Building
Washington, D.C. 20515

Dear Senator Casey and Chairman Scott:

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 your leadership and for the introduction of the Transformation to Competitive Employment Act

This bill represents a thoughtful approach to ending the outdated and unfair payment of workers with disabilities who receive subminimum wages under Section 14(c) of the Fair Labor Standards Act (FLSA) of 1938. The bill not only phases out Section 14(c), but importantly includes funding to help states and providers transform business models to support individuals with disabilities to transition to competitive integrated employment and tracks outcomes over the six year phase out period.

The Workforce Innovation and Opportunity Act (WIOA) of 2014 established as a priority competitive integrated employment (CIE) 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 CIE, 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 for too long has created and reinforced a life of poverty and dependency on public support. NDRN has long supported ending the outdated and unfair Section 14(c) program and has issued two reports [Segregated and Exploited: A Call to Action](#) and [Beyond Segregated and Exploited](#) highlighting this issue. However, ending subminimum wage alone is not enough. We need to ensure that people with disabilities have opportunities to work at fair wages, alongside co-workers without disabilities. If passed, the capacity-building component included in the Transformation to Competitive Employment Act will be a game-changer in

expanding opportunities for CIE.

The Congressionally-created federal Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the Committee), established under WIOA submitted a report to Congress and the Labor Secretary regarding 14(c) in September 2016. Importantly, the Committee recommended that “Congress should amend Section 14(c) of FLSA to allow for a well-designed, multi-year phase-out of the Section 14(c) Program that results in people with disabilities entering CIE.” The Committee’s recommendations focused on pairing the elimination of Section 14(c) with expanding the capacity of CIE, including through funding and technical assistance to help providers transform their business model. The Committee also recommended improved data collection and focus on employment outcomes.ⁱ The Transformation to Competitive Employment Act would make these recommendations a reality.

Additionally, 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 subminimum 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 feels that the Transformation to Competitive Employment Act includes these recommendations and provides employers with 14(c) certificates the funding, supports and training necessary to change the infrastructure of their business models, while ensuring that individuals with disabilities have opportunities for CIE and are supported throughout the process. In short, this bill signifies a critical and responsible paradigm shift for the employment of individuals with disabilities.

NDRN thanks you again for your leadership around advancing opportunities for employment for people with disabilities and the introduction of this critical bill and stands ready to assist you as this bill moves through Congress.

Please contact 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,



Curt Decker
Executive Director

ⁱ Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities

Final Report (Sept. 2016) at 28-31 (emphasis added), available at <https://www.dol.gov/odep/pdf/20150808.pdf>.

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