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**Written Testimony of the Autistic Self Advocacy Network
March 6, 2024**

**For the Senate Special Committee On Aging
Hearing on Competitive Integrated Employment: The Standard for Disability Employment
February 29, 2024**

Dear Chairman Casey and Ranking Member Braun,

On behalf of the Autistic Self Advocacy Network (ASAN), thank you for the opportunity to provide written testimony on the importance of Competitive Integrated Employment (CIE) to the disability community. ASAN is a 501(c)(3) advocacy organization run by and for autistic people.

People with disabilities are among the last groups of Americans who are not protected by minimum wage laws. Section 14(c) of the Fair Labor Standards Act creates a rare exception to the federal minimum wage. Through the 14(c) program, employers can obtain a certificate from the Department of Labor allowing them to pay workers with disabilities below the federal minimum wage based on alleged productivity, though productivity determinations are often structured in ways that keep wages artificially low.¹ According to the Government Accountability Office (GAO), as of January 2023, “at least 120,000 workers were employed under these certificates, with half earning less than \$3.50 an hour.”²

14(c) assumes that workers with disabilities are inherently less productive than workers without disabilities and that no employer would willingly pay full wages for disabled workers. However, many 14(c) workers are productive enough to form part of the supply chain in for-profit enterprises.^{3,4} Like their nondisabled peers, people with disabilities have varying skills, aptitudes, and interests. All workers are more suited for and productive in some jobs than others. Even an individual who is genuinely unproductive at light industrial assembly in a 14(c) sheltered workshop, for example, may be a high performer in a customer-facing role with more novelty and human interaction. By keeping people with disabilities in a segregated, one-size-fits-all workplace with low wages, 14(c) programs prevent their participants from finding jobs in which they might thrive. One GAO report found that “only approximately 5% of sheltered workshop employees left to take a job

¹ Whittaker, W. G. (2005, February 9). *Treatment of Workers with Disabilities Under Section 14(c) of the Fair Labor Standards Act*. (CRS Report No. RL30674). <https://ecommons.cornell.edu/server/api/core/bitstreams/9beee09a-6f8f-4a21-b5ac-c90221236bff/content>

² Government Accountability Office. (2023). *Subminimum Wage Program: DOL Could Do More to Ensure Timely Oversight*. (GAO Publication No. 23-105116). <https://www.gao.gov/assets/gao-23-105116.pdf>

³ Disability:IN. (2019). (rep.). *Sub-minimum Wage in Corporate Supply Chains*. Retrieved March 5, 2024, from <https://s3.amazonaws.com/disabilityin-bulk/2019/Sub-Minimum+Wage+in+Corporate+Supply+Chains+final.pdf>.

⁴ Altman, Louis. (2013, June 27). *Federal Law Allows Employers of Those with Disabilities to Skirt Minimum Wage*. Nonprofit Quarterly. <https://nonprofitquarterly.org/federal-law-allows-employers-of-those-with-disabilities-to-skirt-minimum-wage/>

in the community.”⁵ Sheltered workshops are falling short of their promise to provide disabled people with the training and tools necessary for feasibly transitioning to CIE. The 14(c) program was meant only to be used “to the extent necessary to prevent curtailment of opportunities” for disabled peoples’ employment, and yet it is doing the opposite.⁶

The financial effects of subminimum wage are devastating. No combination of SSI or SSDI payments with subminimum wage grants financial freedom. According to a 2023 report from the Financial Health Network, nearly half of working-age disabled people had annual household incomes under \$30k.⁷ The 2020 Annual Disability Statistics Compendium found there is a 25.9% poverty rate for working-age disabled people who live in the community, which is more than double the poverty rate for their non-disabled counterparts.⁸

Some workers employed through 14(c) work in facilities that primarily or exclusively employ people with disabilities. These facilities are known as sheltered workshops. Research has shown that sheltered workshops do not achieve “any meaningful preferred employment outcome— not in CIE, not in wages, not in hours, not in cost, not in quality of life, not in achieving greater independence. Comparatively, integrated vocational service models described by studies led to better employment outcomes in terms of job placement, stability and retention, benefits, independence, and several markers of individual health.”⁹ It costs state adult services agencies less to pay for employment supports to help workers with disabilities flourish in typical jobs than to keep them in sheltered workshops.¹⁰ Sheltered workshops are also incredibly exploitative. DOL’s Wage and Hour Division found “violations related to the 14(c) program in two-thirds of its investigations.”¹¹ By segregating employees in isolated, disability-specific work settings that limit economic independence, opportunity for advancement, and community interaction, these businesses also operate contrary to obligations under the Americans with Disabilities Act to ensure that individuals with disabilities are able to live, work, and receive services in the most integrated setting appropriate to their needs.¹¹

Subminimum wages cause more than financial and professional harm to people with disabilities. Not only do subminimum wages keep people with disabilities in poverty, but they cause psychological harm through disabled workers’ knowledge that they are being paid less than their peers and less than what they can achieve. There is no dignity in subminimum wage.

⁵ General Accounting Office. (2001). *Special Minimum Wage Program, Centers Offer Employment and Support Services to Workers with Disabilities, But Labor Should Improve Oversight*. (GAO Publication No. 01-886). <https://www.gao.gov/assets/gao-01-886.pdf>

⁶ House of Representatives, Congress. (2010, December 30). 29 U.S.C. 214 - Employment under special certificates. [Government]. U.S. Government Publishing Office. <https://www.govinfo.gov/app/details/USCODE-2010-title29/USCODE-2010-title29-chap8-sec214>

⁷ Warren, A., Chege, W., Greene, M., & Berdie, L. (2023). (rep.). *The Financial Health of People With Disabilities Key Obstacles and Opportunities*. Financial Health Network. Retrieved March 5, 2024, from <https://finhealthnetwork.org/research/the-financial-health-of-people-with-disabilities/>.

⁸ Paul, S., Rafal, M., & Houtenville, A. (2020). Annual Disability Statistics Compendium: 2020 (Table 6.3). Durham, NH: University of New Hampshire, Institute on Disability. https://disabilitycompendium.org/sites/default/files/user-uploads/Events/2021_release_year/Final%20Accessibility%20Compendium%202020%20PDF_2.1.2020reduced.pdf

⁹ Taylor, J. P., Avellone, L., Wehman, P., & Brooke, V. (2023). The efficacy of competitive integrated employment versus segregated employment for persons with disabilities: A systematic review. *Journal of Vocational Rehabilitation*, 58(1), 63–78. <https://doi.org/10.3233/jvr-221225>

¹⁰ National Council on Disability. (2012). *Report on Subminimum Wage and Supported Employment*. <https://www.ncd.gov/report/national-council-on-disability-report-on-subminimum-wage-and-supported-employment/>

¹¹ ADA.gov. (2023, October 31). *Questions and Answers on the Application of the ADA’s Integration Mandate and Olmstead v. L.C. to Employment and Day Services for People with Disabilities*. <http://www.ada.gov/resources/olmstead-employment-qa>

Passing the Transformation to Competitive Integrated Employment Act (TCIEA) is a vital step toward ending these aforementioned harms. TCIEA aims to phase out existing 14(c) certificates over a five-year period, prohibit the issuance of new ones, and provide funding for grants that support businesses with implementing best practices for the gradual transition to CIE.¹² TCIEA offers a realistic alternative to subminimum wage.

Equality under the law, dignity for all, and true competitive integrated employment cannot be achieved without bringing employment law into the 21st century. For these reasons, the Autistic Self Advocacy Network supports the Transformation to Competitive Integrated Employment Act and the steps it takes to help workers with disabilities reach their full potential.

Thank you,

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¹² Heigl, L., Knackstedt, K., & Sliva, E. (2024). (rep.). *Pennies on the Dollar: The Use of Subminimum Wage for Disabled Workers across the United States*. New America. Retrieved March 5, 2024, from <https://www.newamerica.org/education-policy/reports/the-use-of-subminimum-wage-for-disabled-workers-across-the-us/momentum-to-change-the-subminimum-wage/>.