



October 23rd, 2024

Office of Management and Budget (OMB)  
725 17th Street, NW  
Washington, DC 20503

Department of Labor (DOL), Wage & Hour Division  
200 Constitution Avenue NW, Room S-3502  
Washington, DC 20210

To OMB Director Young, Acting DOL Secretary Su, and Acting DOL Director Navarrete

The End Subminimum Wage Coalition urges the Office of Management and Budget (OMB) and the Department of Labor (DOL), Wage & Hour Division (WHD) to immediately release the proposed rule, “Employment of Workers With Disabilities Under Special Certificates” (RIN: 1235-AA14). The End Subminimum Wage Coalition includes the American Association of People with Disabilities (AAPD), the Autistic Self Advocacy Network (ASAN), the National Association of Councils on Developmental Disabilities (NACDD), and the National Council on Independent Living (NCIL).

We commend DOL for conducting a comprehensive review of the Section 14(c) program in 2023. The time has come to operationalize your findings. The Fall 2023 Unified Agenda of Federal Regulatory Actions announced that the proposed 14(c) rule would be published in September 2024. As we now approach the end of October, the disabled community and our allies call on OMB and WHD to keep to their word and avoid any further unnecessary delay in ensuring that all disabled people can earn fair pay for our work.

The Office of Disability Employment Policy (ODEP) made “Access to Good Jobs for All” its official theme for the 2024 National Disability Employment Awareness Month (NDEAM).<sup>1</sup> The Department of Labor can most meaningfully honor its commitment to “Access to Good Jobs for All” by publishing the proposed 14(c) rule now.

Acting Secretary Su has congressional authority to issue a proposed 14(c) rule. According to the 1938 Fair Labor Standards Act (FLSA):

“The Secretary, to the extent necessary *in order to prevent curtailment of opportunities* for employment, *shall by regulations* or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued *pursuant to regulations of the Secretary*, at such wages lower than the minimum wage applicable under section 206 of this title and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.”<sup>2</sup> (Emphasis added)

<sup>1</sup> *National Disability Employment Awareness Month (NDEAM)*. (2024). U.S. Department of Labor, Office of Disability Employment Policy.

<https://www.dol.gov/agencies/odep/initiatives/ndeam>

<sup>2</sup> 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>;

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FairLaborStandAct.pdf>

The 14(c) program no longer prevents the curtailment of opportunities—in fact, 14(c) is not “necessary” to any extent because it worsens opportunities.<sup>3</sup> Acting Secretary Su can and should, therefore, promptly issue a proposed 14(c) regulation to ensure that employment opportunities are not curtailed for disabled people.

The Department of Labor’s proposed rule about 14(c) should reflect U.S. Department of Justice guidance, which makes clear that individuals with disabilities must be able to live, work, and receive services in the most integrated setting appropriate to their needs.<sup>4</sup> DOJ enforcement actions spanning more than a decade demonstrate that DOJ stands by this guidance.<sup>5</sup> The 14(c) program is inconsistent with this guidance because it segregates disabled people in isolated, disability-specific work settings that limit economic independence, professional advancement, and community interaction. Any additional delay to the release of a rule reforming the use of 14(c) certificates serves to further isolate disabled people by limiting our opportunities to live and work in our communities.

The End Subminimum Wage Coalition demands that DOL and OMB issue the proposed 14(c) rule with no further delay.

If you have any questions about this letter, please contact Nina Stoller, Policy Coordinator for the Autistic Self Advocacy Network (ASAN): [nstoller@autisticadvocacy.org](mailto:nstoller@autisticadvocacy.org)

Sincerely,

### **The End Subminimum Wage Coalition**

American Association of People with Disabilities (AAPD)

Autistic Self Advocacy Network (ASAN)

National Council on Independent Living (NCIL)

National Association of Councils of Developmental Disabilities (NACDD)

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<sup>3</sup> Heigl, L., Knackstedt, K., & Silva, E. (2024). Pennies on the Dollar: The Use of Subminimum Wage for Disabled Workers Across the United States. In *New America*. <https://www.newamerica.org/education-policy/reports/the-use-of-subminimum-wage-for-disabled-workers-across-the-us/momentum-to-change-the-subminimum-wage/>; 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>; Taylor, J., Avellone, L., Brooke, V., Wehman, P., Inge, K., Schall, C., & Iwanaga, K. (2022). The impact of competitive integrated employment on economic, psychological, and physical health outcomes for individuals with intellectual and developmental disabilities. *Journal of Applied Research in Intellectual Disabilities*, 35(2), 448–459. <https://doi.org/10.1111/jar.12974>; National Council on Disability (NCD). (2012). *Report on Subminimum Wage and Supported Employment*. <https://www.ncd.gov/report/national-council-on-disability-report-on-subminimum-wage-and-supported-employment/>; Cimera, R. E. (2011). Does being in sheltered workshops improve the employment outcomes of supported employees with intellectual disabilities? *Journal of Vocational Rehabilitation*, 35, 21-27. <https://www.researchgate.net/profile/Robert-Cimera/publication/260781788>; Cimera, R. E. (2008). The cost-trends of supported employment versus sheltered employment. *Journal of Vocational Rehabilitation*, 28(1), 15-20. <https://www.researchgate.net/profile/Robert-Cimera/publication/230853211>; Migliore, A., Mank, D., Grossi, T., & Rogan, P. (2007). Integrated employment or sheltered workshops: Preference of adults with intellectual disabilities, their families and staff. *Journal of Vocational Rehabilitation*, 26, 5-19. <https://awspntest.apa.org/record/2007-03479-002>; Kober, R. & Eggleton, I. R. C. (2005). The effect of different types of employment on quality of life. *Journal of Intellectual Disability Research*, 49 (10), 756-760. <https://doi.org/10.1111/j.1365-2788.2005.00746.x>; 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>; Petrovski, P. & Gleeson, G. (1997). The relationship between job satisfaction and psychological health in people with intellectual disability in competitive employment. *Journal of Intellectual and Developmental Disability*, 22(3), 199-211, <https://doi.org/10.1080/13668259700033411>.

<sup>4</sup> U.S. Department of Justice, Civil Rights Division. (2023). *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*. <https://www.ada.gov/resources/olmstead-employment-qa/>

<sup>5</sup> U.S. Department of Justice, Office of Public Affairs. (2024). *Justice Department Finds That Utah Violates Federal Civil Rights Law by Segregating People with Disabilities*. <https://www.justice.gov/opa/pr/justice-department-finds-utah-violates-federal-civil-rights-law-segregating-people>; U.S. Department of Justice, Office of Public Affairs. (2022). *Justice Department Announces Conclusion of Landmark Agreement Addressing Segregated Work Settings for People with Disabilities*. <https://www.justice.gov/opa/pr/justice-department-announces-conclusion-landmark-agreement-addressing-segregated-work>; U.S. Department of Justice, Office of Public Affairs. (2014). *Department of Justice Reaches Landmark Americans with Disabilities Act Settlement Agreement with Rhode Island*. <https://www.justice.gov/opa/pr/department-justice-reaches-landmark-americans-disabilities-act-settlement-agreement-rhode>

## **The End Subminimum Wage Coalition**

**American Association of People with Disabilities (AAPD):** AAPD works to increase the political and economic power of people with disabilities. As a national disability-led cross-disability organization, AAPD advocates for full civil rights for more than 60 million Americans with disabilities. We do this by promoting equal opportunity, economic power, independent living, and political participation. Since 1995, AAPD has worked tirelessly alongside disability advocates, government agencies, and corporate and nonprofit partners to advance the goals of the Americans with Disabilities Act (ADA).

**The Autistic Self Advocacy Network (ASAN):** ASAN is a national grassroots disability rights organization run by and for autistic people. We believe that the goal of autism advocacy should be a world in which autistic people enjoy equal access, rights, and opportunities. ASAN works to make sure autistic people are included in policy-making, so that laws and policies meet our community's needs. Our members and supporters include autistic adults and youth, cross-disability advocates, and non-autistic family members, professionals, educators, and friends.

**The National Association of Councils on Developmental Disabilities (NACDD):** NACDD is the national membership association for the 56 State Councils on Developmental Disabilities (DD Councils) across the United States and its territories. Council members are appointed by a state or territory's governor; by law, at least 60% of a Council's membership must consist of individuals with developmental disabilities or their family members. The DD Councils receive federal funding to support policy change and programs that promote self-determination, integration, and inclusion for all people in the United States with intellectual and developmental disabilities.

**The National Council on Independent Living (NCIL):** NCIL is the oldest cross-disability, national grassroots organization run by and for people with disabilities. NCIL membership includes people with disabilities, Centers for Independent Living, Statewide Independent Living Councils, and other disability rights organizations. As a membership organization, NCIL advances independent living and the rights of people with disabilities through consumer driven advocacy. NCIL envisions a world in which people with disabilities are valued equally and participate fully.