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Submitted via regulations.gov

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Wage and Hour Division, U.S. Department of Labor
200 Constitution Avenue NW, Room S-3502
Washington, DC 20210

Re: Regulatory Information Number (RIN) 1235-AA14. Comments on Notice of Proposed Rulemaking (NPRM):
Employment of Workers with Disabilities under Section 14(c) of the Fair Labor Standards Act.

Introduction

The Autistic Self Advocacy Network (ASAN) thanks the Department of Labor’s Wage and Hour Division for issuing the proposed rule, “Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act (FLSA)” (RIN 1235-AA14). ASAN is a national policy advocacy 501(c)3 dedicated to the issues affecting autistic people and other people with intellectual and developmental disabilities. Our organization works to ensure all people with disabilities have equal rights and the support we need to live our best lives, which are goals best realized when people with disabilities are included in the policymaking process.

ASAN is very supportive of the proposed rule. We agree that the Department has the authority to issue and finalize this rule because there is both statutory and congressional intent. And we agree that Section 14(c) of the Fair Labor Standards Act does not prevent the curtailment of opportunities because 14(c) itself curtails opportunities for people with disabilities. ASAN agrees with the Department’s proposal to eliminate all 14(c) certificates three years after the effective date of the final rule. Specifically, we support the proposal to end the issuance of new certificates on the effective date of the final rule and to end renewals of existing certificates three years after the effective date of the final rule. Because many states have already had a head start on the phase out or have the resources to do so, and because extensions undercut incentives for efficiency, no extensions of these proposed deadlines are warranted. If the Department determines otherwise, we strongly recommend a number of oversight and protective measures to prevent abuse.

The Department of Labor Has Clear Statutory Authority to End the Issuance of 14(c) Certificates

Section 14(c) of the FLSA requires the Secretary to issue 14(c) certificates allowing disabled workers to be paid less than minimum wage “to the extent necessary to prevent curtailment of [their] opportunities for employment[.]”¹

¹ Employment Under Special Certificates, Title 29 U.S.C. § 214(c) (2010).
<https://www.govinfo.gov/app/details/USCODE-2010-title29/USCODE-2010-title29-chap8-sec214>

In other words, the statute dictates that the Secretary must issue certificates only when doing so will improve the employment prospects of people with disabilities.² This means that the Secretary may not issue certificates if doing so would weaken the career prospects of disabled workers. The proposed rule is consequently well-supported by both the statute it enacts and its purpose of promoting employment for disabled people.

It is well-supported by the available research that 14(c) certificates do not bring about meaningful employment opportunities for disabled people.^{3,4} People with disabilities, including intellectual and developmental disabilities, can be successful in integrated workplaces.⁵ People who work under 14(c) certificates—instead of being afforded the opportunity to seek out a suitable job in the traditional workforce and perform it with the right accommodations and supports—are missing out on gainful employment. 14(c) certificates consequently do not create meaningful career opportunities in the present for workers with disabilities.⁶ They also fail to produce good future employment outcomes because they are ineffective as training for jobs in the wider workforce.⁷ The evidence does not support that working under a 14(c) certificate leads to real job opportunities. Only about five percent of individuals in sheltered workshops transition to competitive integrated employment in their lifetimes without additional supports.⁸

Because work under 14(c) certificates forecloses competitive integrated employment without functioning as effective job training, the 14(c) program is an obstacle to employment opportunities for disabled people. Indeed, a recent study found that “repeal of Section 14(c) led to improved employment-related outcomes in people with cognitive disabilities.”⁹ The Department, itself, acknowledges that “...today, the issuance of section 14(c) certificates may, inadvertently and counterintuitively, even contravene the statute’s intent of promoting opportunities for gainful employment.”¹⁰ This leaves the continued issuance of certificates inconsistent with the plain text of the statute. The proposed rule is consequently a faithful act of statutory enactment.

It is also consistent with Congress’ intent in creating this provision in the first place. In doing so, Congress “sought to have individuals with disabilities earn full minimum wages as soon as feasible[.]”¹¹ Furthermore, it “did not grant the Department

² *Ibid.*

³ National Association of Councils on Developmental Disabilities (NACDD). (2024, October 30). *NACDD Position Statement: The urgent need to end 14(c) and sheltered workshops for people with developmental disabilities and transition to integrated, inclusive employment.*

<https://nacdd.org/14cstatement/>

(“Sheltered workshops often limit workers to repetitive, low-skill tasks with little opportunity for advancement, effectively trapping individuals in a cycle of poverty.”)

⁴ Taylor, J. P., Avellone, L., Wehman, P., & Brooke, V. (2022). 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>

⁵ Wehman, P., et. al. (2021). Achieving competitive integrated employment for individuals with intellectual and developmental disabilities. In L. M. Glidden, et. al. (Eds.), *APA handbook of intellectual and developmental disabilities: Clinical and educational implications: Prevention, intervention, and treatment* (pp. 333–355). American Psychological Association. <https://psycnet.apa.org/record/2020-80415-013> (“It is now well accepted that individuals with intellectual and developmental disabilities (IDD) can work in competitive integrated employment (CIE) and earn a wage commensurate with their peers without disabilities.”)

⁶ National Disability Rights Network, & Decker, C. (2011). *The failure of the disability service system to provide quality work.*

<https://www.ndrn.org/wp-content/uploads/2019/03/Segregated-and-Exploited.pdf>

⁷ Hopkins, M. (2022, December 2). What disabled workers told us about sheltered workshops. *ProPublica.*

<https://www.propublica.org/article/what-disability-community-told-us-about-sheltered-workshops> (“An investigation by The Kansas City Beacon and ProPublica found that, as of June 30, the vast majority of the more than 5,000 disabled adults employed at Missouri’s 97 sheltered workshop locations have been there for years. The news organizations’ analysis of employment data shows that nearly 45% of the employees have worked at the facilities for at least a decade, and 20% have been there for two decades. The longest-serving employee has stayed for more than 50 years. That’s because very few employees ever “graduate.” From January 2017 through June 2022, only 2.3% of all sheltered workshop employees in Missouri left for a regular job, according to an analysis of employment data by the Beacon and ProPublica.”)

⁸ Illinois Department of Human Services (IDHS) & Illinois Council on Developmental Disabilities (ICDD). (2024). Dignity in Pay Act. In *SWTCIE Illinois: Subminimum Wage to Competitive Integrated Employment*. Illinois Institute for Rehabilitation and Employment Research.

<https://swtcieillinois.ahs.illinois.edu/files/2024/03/2024-DIP-FAQ.pdf>

⁹ Kakara, M., Bair, E. F., & Venkataramani, A. S. (2024). Repeal of subminimum wages and social determinants of health among people with disabilities. *JAMA Health Forum*, 5(11), e244034. <https://doi.org/10.1001/jamahealthforum.2024.4034>

¹⁰ Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96491 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). <https://www.federalregister.gov/d/2024-27880/p-433>

¹¹ See, e.g., Fair Labor Standards Act of 1937: Joint Hearings on S. 2475 and H.R. 7200 before the Senate Comm. On Educ. And Labor; House Comm. On Labor, 75th Cong. 1st Sess. Part 1, p. 38 (June 2-5, 1937) (statement of Robert H. Jackson, Assistant Attorney General, U.S. Dep’t of Justice); Cong. Rec. Vol. 83, Part 6, 75th Cong. 3d Sess. P. 7134 (May 19, 1938).

unconditional authority to issue subminimum wage certificates.”¹² Congressional intent was to create work opportunities for people with disabilities, not to lock this population in an undignified poverty trap. For this reason, the proposed rule is consistent with congressional intent. It is clear that the issuance of special certificates under 14c are not necessary to prevent the curtailment of employment opportunities for disabled workers and that the statutory language plainly empowers the Secretary to end the issuance of such special certificates.

Extensions of the Phaseout Period are Unnecessary

The Department of Labor requested comments on the possibility of a limited extension and the provisions that would guide it. The 3-year phaseout is more than sufficient without any extensions. Many states already have the resources needed to support and a phaseout in this timeframe. Among the 38 states in which 14(c) certificates are issued as of January 17th, 2024, more than a third of those states (14 in total) have state agencies receiving funds from the Disability Innovation Fund - Subminimum Wage to Competitive Integrated Employment (DIF-SWTCIE): Indiana, Pennsylvania, Texas, Florida, Georgia, Connecticut, Virginia, Illinois, North Carolina, New York, Ohio, Minnesota, California, and Iowa.^{13,14,15} In addition, Kansas, Minnesota, Illinois, and possibly other states with 14(c) certificates as of January 17th, 2024 have appropriated funding from state legislation to expand opportunities for competitive integrated employment.^{16,17} And 16 states receive technical assistance from the State Employment Leadership Network (SELN).¹⁸ These resources should enable states to phase out the use of 14(c) programs and may even facilitate a faster phaseout in some cases.

A 3-year phaseout is also sufficient for the states that have yet to transition away from 14(c). As the Department notes, “any extension option increases the risk of use of certificates beyond an actual period of demonstrated need for orderly transition, and might undercut the incentive for those employers to make efficient and timely plans to move.”¹⁹ What is more, a drawn out transition is an inefficient use of resources and does not necessarily reduce disruptions. Maine, for example, ended 14(c) 90 days after adjournment of the legislative session in which it was passed, and still saw substantial gains in employment rates in the following years for people with disabilities, particularly those with cognitive disabilities, even when the employment rate declined for those without disabilities during the same period.^{20,21}

¹² Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96495 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). <https://www.federalregister.gov/d/2024-27880/p-470>

¹³ Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96499 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). Footnote 321.

<https://www.federalregister.gov/documents/2024/12/04/2024-27880/employment-of-workers-with-disabilities-under-section-14c-of-the-fair-labor-standards-act#p-519>

¹⁴ Department of Labor (DOL), Wage & Hour Division (WHD). (n.d.). *14(c) Certificate Holders*. Employment of Workers With Disabilities. Retrieved January 17, 2025, from <https://www.dol.gov/agencies/whd/workers-with-disabilities/section-14c/certificate-holders>

¹⁵ Department of Education, Rehabilitation Services Administration (RSA). (2025). *Grantees*. Disability Innovation Fund (DIF) - Subminimum Wage to Competitive Integrated Employment (SWTCIE).

<https://rsa.ed.gov/about/programs/disability-innovation-fund-subminimum-wage-to-competitive-integrated-employment/grantees>

¹⁶ *Trends and Current Status of 14(c)*. (2024). Association of People Supporting Employment First (APSE).

<https://apse.org/wp-content/uploads/2024/08/APSE-14c-Update-REV-Jul24.pdf>

¹⁷ Access Living. (2024, November 21). *BREAKING: Illinois makes history eliminating subminimum wage for disabled workers* [Press release].

<https://www.accessliving.org/newsroom/press-releases-and-statements/breaking-illinois-makes-history-eliminating-subminimum-wage-for-disabled-workers>

¹⁸ Freeze, S., Anderson, W., National Association of State Directors of Developmental Disabilities Services, & Institute for Community Inclusion at the University of Massachusetts Boston. (2023). Accomplishments Report 2022-2023. In *State Employment Leadership Network (SEL)* (pp. 1–3).

https://static.prod01.ue1.p.pcomm.net/umass/content/AR_2023_F2.pdf

¹⁹ Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96491 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). <https://www.federalregister.gov/d/2024-27880/p-477>

²⁰ An Act To Amend the Laws Governing the Subminimum Wage, Sec. 1. 26 MRSA §666, as amended by PL 2011, c. 483, §1. (2020).

https://www.mainelegislature.org/legis/bills/bills_129th/chapters/PUBLIC632.asp

²¹ Supra. 16

If the Department Provides Extensions, Safeguards are Necessary

While we encourage the Department not to grant any additional extensions, if the Department does determine that extensions are warranted, we alternatively recommend a number of necessary guardrails be put in place to prevent abuse.

There must be narrow qualifying conditions, such as being an employer with more than one hundred employees or being in a state that recently experienced a natural disaster or other public emergency. The Department should only permit one extension per certificate holder, and the extension should be limited to no longer than one year.

In order to receive an extension, certificate holders must submit a corrective action plan (CAP) specifically outlining the steps they will take to both come into compliance with the final rule during the extension timeframe and facilitate employees' transition to competitive integrated employment. The Department should establish a rubric for approved CAPs and deny applications for extensions that do not meet this standard. To ensure CAP compliance, DOL must provide continuous supervision of each approved extension to ensure there's demonstrable progress. ASAN agrees with DOL's proposed revision of 29 CFR 525.18 to state that extensions are not necessarily awarded just because a certificate holder is granted administrative review during their grievance appeal process.

Recommendations for Preventing Disruptions

The Department invited comments on how to implement a phaseout that reduces potential disruptions. We recommend a handful of resources from the Institute for Community Inclusion (ICI) at UMass Boston. The first is the High Performing States Framework, which identifies key characteristics of states that have been able to successfully develop and sustain competitive integrated employment.²² The topline is that lasting systems change requires a coordinated approach across all stakeholders.²³ To that end, ICI published a catalog of promising practices for both service providers and state IDD agencies to increase opportunities for competitive jobs for people with IDD.²⁴ For example, the percentage of people receiving integrated employment services is approximately 5% higher amongst states that receive technical assistance from the State Employment Leadership Network (SELN), which is a collaborative effort between ICI and the National Association of State Directors of Developmental Disabilities Services (NASDDDS).²⁵ To reduce potential disruptions during the phaseout, DOL's Office of Disability Employment Policy (ODEP) should coordinate federal cooperation with NASDDDS and the state IDD agencies it represents.

²² State Employment Leadership Network (SELN). (2023). *About The SELN*, pg. 2.

https://static.prod01.ue1.p.comm.net/umass/content/seln_about_2023_update_F2.pdf

²³ ThinkWork! Institute for Community Inclusion (ICI), UMass Boston. (n.d.). *Systems Change: Publications*.

<https://www.thinkwork.org/topics/systems-change>

²⁴ ThinkWork! Institute for Community Inclusion (ICI), UMass Boston. (2021 and 2023). *Promising Practices*.

<https://www.thinkwork.org/promising-practices>

²⁵ "Integrated employment services primarily capture services to maintain paid integrated employment (including job training, job coaching (both individual and group), ongoing supports, and services for self-employment), and also include job development services funded by the state IDD agency (including discovery and career planning as part of a job development process) that are intended to result in paid integrated employment." Freeze, S., Anderson, W., National Association of State Directors of Developmental Disabilities Services (NASDDDS), & Institute for Community Inclusion (ICI) at the University of Massachusetts Boston. (2023b). *Initiatives and Activities to Improve Integrated Employment Outcomes: Accomplishments Report 2022-2023*. In *State Employment Leadership Network (SELN)* (Chart 1).

https://static.prod01.ue1.p.comm.net/umass/content/AR_2023_F2.pdf

Additional Support for the Proposed Rule

While the proposed rule is comprehensive in its analysis of relevant legislative and legal developments since 1948, ASAN wishes to highlight a number of other developments that are relevant to and support this rulemaking.

Medicaid buy-in programs allow disabled workers to access, sometimes in exchange for a premium, the home- and community-based services that are not provided under employer-sponsored or other private health insurance plans. Increased beneficiary information about Medicaid buy-in programs can allow beneficiaries to maintain services while transitioning away from 14(c). At present, forty-six states maintain Medicaid “buy-in” programs.^{26,27} By allowing individuals to maintain Medicaid coverage while working competitive jobs, these programs help to address concerns that increased earnings may impact access to disability benefits and access to services. These programs allow people with disabilities to work without being forced to choose between their jobs and the care and services they need to maintain their health. The Department of Labor can improve utilization through coordination with other federal agencies, such as the Department of Health and Human Services and the Social Security Administration. Together, DOL, HHS, and SSA should provide—before and during the phaseout—all 14(c) certificate holders with a fact sheet outlining programs like Medicaid “buy-in,” ABLÉ Accounts, and programs within Social Security, such as Ticket to Work, Earned Income Exclusion, and Work Incentives and Planning Assistance (WIPA).

We appreciate the Department for recognizing that funds from Medicaid and the Department of Health and Human Services can be reallocated from programs supporting subminimum wage to those supporting full wage employment.²⁸ These full-wage employment opportunities created by service providers receiving Medicaid funding are already required to be integrated, under the Home and Community Based (HCBS) Settings Rule.^{29,30} Even when service providers do not receive Medicaid funds, federal guidance is clear that under the Americans with Disabilities Act, individuals with disabilities must be able to work and receive services in the most integrated setting appropriate to their needs.^{31,32} The Department of Justice’s 2024 investigation of Utah, 2022 settlement with Oregon, and 2014 settlement with Rhode Island are enforcement efforts that demonstrate that ensuring community integration in services remains a shared priority across Departments.^{33,34,35}

²⁶ *Medicaid Eligibility through Buy-In Programs for Working People with Disabilities*. (2022). [Dataset]. Kaiser Family Foundation (KFF). <https://www.kff.org/other/state-indicator/medicaid-eligibility-through-buy-in-programs-for-working-people-with-disabilities/>

²⁷ Each of these states has varying eligibility criteria. *Ibid*.

²⁸ Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96484 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). <https://www.federalregister.gov/d/2024-27880/p-288>

²⁹ American Civil Liberties Union (ACLU). (2018). *The Home and Community Based Services Settings Rule: Frequently Asked Questions (FAQ)*. https://www.aclu.org/sites/default/files/field_document/aclu_faq_-_hcbs_settings_rule-final-1-10-18.pdf

³⁰ The HCBS Settings Rule compliance deadline was March 2022.

³¹ 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/>

³² U.S. Department of Justice, Civil Rights Division. (Undated). *Olmstead: Community Integration for Everyone*. Information And Technical Assistance On The Americans With Disabilities Act. https://archive.ada.gov/olmstead/olmstead_about.htm

³³ 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>

³⁴ 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>

³⁵ U.S. Department of Justice, Office of Public Affairs. (2014). *U.S. Department of Justice, Office of Public Affairs. (2024)*. <https://www.justice.gov/opa/pr/department-justice-reaches-landmark-americans-disabilities-act-settlement-agreement-rhode>

Additional Impacts of the Rule on Staff and Non-14c Workers Without Disabilities

The Department requested comment on the impacts of the final rule, including to support staff or job coaches in 14(c) settings and workers not in 14(c) settings. Sheltered workshops' support staff and job coaches are easily transferable positions to competitive integrated employment settings. If the rule is finalized, it is likely there will be a higher demand for their services than before, which means these direct support professionals will have more earning potential and greater contributions to the national economy by shifting their offerings to CIE settings.

Ending subminimum wage could also increase wages for non-14(c) employees working at or slightly above minimum wage through what economists refer to as a "ripple effect" of competitive market forces. This financial advantage does not end with wages.³⁶ According to the National Employment Law Project, "Minimum wage increases stimulate the economy by increasing consumer spending without adding to state and federal budget deficits. ... [And raising] wages reduces costly employee turnover and increases productivity."³⁷ Just as economists note that "a rising tide lifts all boats" in the form of stimulated economic activity, the converse is also true: suppressed economic activity and reduced sector wages impact many workers beyond the 14(c) settings themselves.

Nondisabled people additionally experience harm due to being segregated from disabled workers. Disability is a natural and positive facet of human diversity. When nondisabled people are systemically severed from this fact of life, through sheltered workshops and other segregated living, working, and recreational systems, it both degrades nondisabled peoples' understanding of our shared humanity and creates the foundation for ableism.³⁸ Ableism harms nondisabled people by providing a false sense of separateness from those seen as in "need" of segregation.³⁹ When fact, more than one in four adults are or will be disabled at some point during their working years, and even greater chance of experiencing disability in aging—meaning many currently nondisabled adults will experience disability during or after their time in the workforce, whether due to accident, injury, or the natural process of aging.⁴⁰ Ending segregated employment and ensuring equal rights for all workers will benefit the not-yet-disabled, both now and in the future.

We know from parallel experience in education that integration provides benefits to disabled and nondisabled individuals alike. These findings hold equally true in relation to employment matters. The U.S. Departments of Education (Ed) and Health & Human Services (HHS) issued a joint statement in 2015 citing research about how inclusive educational programs can help nondisabled students demonstrate greater capacity for empathy

³⁶ Harris, B., & Kearney, M. S. (2014, January 10). The "Ripple effect" of a minimum wage increase on American workers. *Brookings*.

<https://www.brookings.edu/articles/the-ripple-effect-of-a-minimum-wage-increase-on-american-workers/>

³⁷ National Employment Law Project (NELP). (n.d.). *Minimum & Living Wage: Every job should pay a living wage*.

<https://www.nelp.org/explore-the-issues/minimum-living-wage/>

³⁸ Ableism is "a system of assigning value to people's bodies & minds based on societally constructed ideas of normalcy, productivity, desirability, intelligence, excellence, & fitness. These constructed ideas are deeply rooted in eugenics, anti-Blackness, misogyny, colonialism, imperialism, & capitalism. This systemic oppression leads to people & society determining people's value based on their culture, age, language, appearance, religion, birth or living place, "health/wellness", &/or their ability to satisfactorily re/produce, 'excel' & 'behave.' You do not have to be disabled to experience ableism." Lewis, Talila A. (2002, January). Working Definition of Ableism - January 2022 Update. *Talila A. Lewis' Blog*.

<https://www.talilalewis.com/blog/working-definition-of-ableism-january-2022-update>

³⁹ No one "needs" segregation. The paternalistic and specious worldview that segregation benefits the segregated has its roots in eugenics and other histories of discrimination. People who society mislabels as the "most significantly" or "profoundly" disabled deserve the types of affordable healthcare, housing, and wraparound support services that make integration possible.

⁴⁰ The U.S. Centers for Disease Control and Prevention (CDC). (2024, July 16). *CDC Data Shows Over 70 Million U.S. Adults Reported Having a Disability*. <https://www.cdc.gov/media/releases/2024/s0716-Adult-disability.html>

and compassion, as well as better conceptual understandings of diversity and disability.^{41,42,43,44,45} The National Council on Disability, an independent federal agency, issued a report in 2014 citing research about how educational integration increased nondisabled students' ethical principles and comfort with human differences, as well as had either a positive effect or no negative effect on the sociopersonal development of nondisabled people.^{46,47,48,49}

The benefits of integration on nondisabled people do not end at the school door. Nondisabled adults would benefit psychologically from the integration, in particular, of former 14(c) employees into the larger workforce. These experiences could help nondisabled people understand how their own liberation from ableism is dependent on the integration of all workers, nondisabled and disabled alike, particularly those with IDD. The greater familiarity nondisabled people have with disabled people in their everyday working lives, then the more opportunities there are for nondisabled people to learn from the unique and valuable contributions of disabled people, as all people learn and benefit from perspectives and experiences outside their own. This recognition happens when there are increased positive exposures to difference. In other words, the remedy to the harms experienced by nondisabled peoples due to the segregation of disabled people is reconnection, and 14(c) forecloses that option.⁵⁰

Lastly, ASAN agrees with DOL's analysis of the published reports on this topic, such as those from the U.S. Commission on Civil Rights (USCCR), the National Council on Disability (NCD), and the U.S. Government Accountability Office (GAO). We want to echo and amplify DOL's inclusion of a key finding from a study funded by the U.S. Department of Education: "among the 70 percent of secondary school students with disabilities who identified employment as a goal for the post-school years, 62 percent had a goal to work in competitive employment, while only 3 percent wished to work in 'sheltered' employment."⁵¹ These findings align with countless testimonials from former 14(c) employees, some of which ASAN shared during the two E.O. 12866 meetings we attended with the Office of Management and Budget's Office of Information and Regulatory Affairs and DOL's Wage & Hour Division.^{52,53} We agree with the NPRM's analysis on workforce participation data for

⁴¹ U.S. Department Of Health And Human Services & U.S. Department Of Education. (2015). *Policy Statement On Inclusion Of Children With Disabilities In Early Childhood Programs*. <https://www2.ed.gov/policy/speced/guid/earlylearning/joint-statement-full-text.pdf>

⁴² Cross, A. F., Traub, E. K., Hutter-Pishgahi, L., & Shelton, G. (2004). Elements of successful inclusion for children with significant disabilities. *Topics in Early Childhood Special Education*, 24(3), 169-183.

⁴³ Diamond, K. E., & Huang, H.-H. (2005). Preschoolers' ideas about disabilities. *Infants and Young Children*, 18, 37-46.

⁴⁴ Odom, S. L., Buysse, V., & Soukakou, E. (2011). Inclusion for young children with disabilities: A quarter century of research perspectives. *Journal of Early Intervention*, 33(4), 344-356.

⁴⁵ Odom, S. L., et al. (2004). Preschool inclusion in the United States: A review of research from an ecological systems perspective. *Journal of Research in Special Educational Needs*, 4(1), 17-49.

⁴⁶ National Council on Disability (NCD). (2018). *The Individuals with Disabilities Education Act (IDEA) Series: The Segregation of Students with Disabilities*. <https://www.ncd.gov/assets/uploads/docs/ncd-segregation-swd-508.pdf>

⁴⁷ Debbie Staub and Charles A. Peck. (1995). "What Are the Outcomes for Nondisabled Students?" *Educational Leadership*, 52(4), 36-40.

⁴⁸ June E. Downing and Kathryn D. Peckham-Hardin. (2007). "Inclusive Education: What Makes it a Good Education for Students with Moderate to Severe Disabilities?" *Research to Practice for Persons with Severe Disabilities*, 32(1), 16-30.

⁴⁹ Thomas Hehir et al. (2016). A Summary of the Evidence on Inclusive Education. *Instituto Alana, - São Paulo, Brazil*. https://www.researchgate.net/publication/312084483_A_Summary_of_the_Research_Evidence_on_Inclusive_Education

⁵⁰ Integration can also reduce prejudice and discrimination toward disabled people.

⁵¹ Mary Wagner, Lynn Newman, Renee Cameto, Nicollee Garza, Phyllis Levine, "After High School: A First Look at the Postschool Experiences of Youth with Disabilities. A Report from the National Longitudinal Transition Study-2 (NLTS2)," SRI International, April 2005, pp. 5-3 to 5-4, www.nlts2.org/reports/2005_04/nlts2_report_2005_04_complete.pdf. As cited in, Employment of Workers With Disabilities Under Section 14(c) of the Fair Labor Standards Act, 89 FR 96479 (proposed December 4, 2024) (to be codified at 29 CFR Part 525). <https://www.federalregister.gov/d/2024-27880/p-202>

⁵² Department of Labor, Wage & Hour Division. (Aug. 28, 2024). *Proposed Comments and 8.28.24 OIRA Meeting: various reports and testimonies related to 14c NPRM*. David Pinno, Donna Spears, and the End Subminimum Wage Coalition.

<https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1235-AA14&meetingId=581373&acronym=1235-DOL/WHD>

⁵³ Department of Labor, Wage & Hour Division. (Sept. 12, 2024). *Diana Mairose's Employment Story & Employment Checklist - 14c OIRA Meeting; Chaqueta Stuckey's Talking Points - 14c OIRA Meeting; Liz Weintraub's Comments - 14c OIRA Meeting*. Diana Mairose, Chaqueta Stuckey, and Liz Weintraub.

<https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=false&rin=1235-AA14&meetingId=589023&acronym=1235-DOL/WHD>

people with intellectual and developmental disabilities (IDD), but further emphasize that irrespective of this workforce participation data, it is clear from the reports of disabled people themselves that 14(c) certificates fail to provide meaningful career opportunities to people with disabilities.

Conclusion

Section 14(c) is an affront to the dignity of disabled people. It treats our employment as an act of charity and a programmatic service to be provided, rather than an opportunity for financial independence and meaningful participation in the workforce. Segregated, subminimum wage jobs deprive disabled people of the chance to know what we're capable of when our needs are valued and met. We rise to the occasion when employers, family advocates, regulatory agencies, and legislators meet their responsibilities to us. Many more disabled people would be capable of competitive integrated employment—and more generally, we are better able to reach our highest potential—if we are *first* provided with fair wages.⁵⁴

The Autistic Self Advocacy Network encourages the Department of Labor to finalize the proposed 14(c) rule. If you have any questions about our comments, please contact Nina Stoller, ASAN Policy Coordinator, nstoller@autisticadvocacy.org. Thank you.

⁵⁴ In addition to wraparound support services, appropriate accommodations protected under the Americans with Disabilities Act (ADA), and integrated opportunities afforded under *Olmstead*.