



Dear Senators and Representatives,

We write this letter on behalf of the End Subminimum Wage Coalition, represented by the undersigned organizations advocating for the human rights of disabled people. The coalition was established in early 2024 by disability organizations to collaboratively strategize and advocate for both advancing competitive integrated employment (CIE) opportunities and ending the discriminatory practice of paying subminimum wage to disabled workers. It is our shared belief that all disabled employees deserve fair pay for our work. Disabled people want to work, and the Transformation to Competitive Integrated Employment Act (H.R. 1263 / S.533) will help that goal come to fruition. TCIEA advances opportunities for CIE and gradually sunsets the Section 14(c) program.

Introduction

American Association of People with Disabilities: 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) 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) 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) 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.

The use of subminimum wage is currently permitted under section 14(c) of the Fair Labor Standards Act (FLSA). Established 86 years ago in 1938, this antiquated provision allows disabled people to be paid less than minimum wage. Since 14(c)'s establishment, several landmark pieces of legislation have passed that establish civil rights and employment protections for disabled people. Some examples include the Rehabilitation Act (Rehab Act), the Developmental Disabilities Act, the Americans with Disabilities Act, and the Workforce Innovation and Opportunity Act (WIOA) of 2014, which specifically outlined requirements for pathways to competitive integrated employment.

Employee Testimonies

Paying people with disabilities subminimum wage is inconsistent with current federal public policy goals to promote economic self-sufficiency, independent living, and community inclusion for disabled people. There is broad consensus support for TCIEA among the disability community. Many people who were placed in subminimum wage jobs have spoken out about the abusive and harmful nature of these programs. Below are testimonies from two people about their experience in 14(c) certificate-holding sheltered workshop employment settings. Sheltered workshops are a type of segregated employment in which disabled employees are kept apart from the rest of the community. Approximately 96% of 14(c) employees are at sheltered workshops.¹

David Pinno – Wisconsin

"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

¹ The Association of People Supporting Employment First (APSE). (2023). *Trends and Current Status of 14(c)*. <https://bit.ly/4cpXZpV>

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 – Louisiana

“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.”

Myths vs. Reality

Arguments favoring the continued use of 14(c) certificates are primarily based on fear or misunderstanding of the current policy and programmatic landscape. The biggest misconception is that payments above subminimum wage will disqualify disabled employees from receiving the public benefits they require. However, two existing options for mitigating that possibility are ABLE Accounts and Medicaid “buy-in” programs.

ABLE accounts are savings accounts that allow disabled people to save money without it counting toward the asset limits associated with eligibility for SSI, Medicaid, SNAP, and other government assistance programs.² Unfortunately, 93% of disabled people are unfamiliar with ABLE accounts. But TCIEA has provisions requiring the dissemination and promotion of educational information about ABLE accounts.³

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.⁴ Forty-seven states and D.C. have

² ABLE National Resource Center (National Disability Institute). *About ABLE Accounts: 10 Things You Should Know*. <https://bit.ly/3VPp8eY>

³ Warren, Chege, Greene, Berdie. (2023). *The Financial Health of People With Disabilities: Key Obstacles and Opportunities*. Financial Health Network. <https://bit.ly/3RVm1kn>

⁴ HHS Administration for Community Living (ACL); DOL Office of Disability and Employment Policy (ODEP); and the LEAD Center. (2019). *Medicaid “Buy-in” Q&A*. <https://bit.ly/3XPC9Yq>

Medicaid “buy-in” programs.^{5,6} No one should have to choose between keeping a job and keeping their healthcare, and this program makes it possible for disabled people to have both.

ABLE accounts and Medicaid “buy-in” programs must be expanded to eliminate disincentives to work. Income and asset limits associated with eligibility for government assistance programs must also be raised to align with the rising cost of living across the country, particularly for disabled people.^{7,8} But even in the absence of those policy changes, the passage of TCIEA will still be beneficial. TCIEA creates more opportunities for workforce participation, not fewer.

The loudest TCIEA opponents claim that some disabled people are too impaired for any job setting besides sheltered workshops. These opponents believe that eliminating sheltered workshops would result in disabled people losing “the place they go every day” and losing support services. Sheltered workshops, however, exacerbate our impairments and compromise our access to quality support services. Segregated, subminimum wage jobs deprive us of the chance to know what we’re capable of when our needs are valued and met.

When disabled people are instead given the appropriate accommodations and wraparound services, we often stop demonstrating the behaviors or characteristics that got us (mis)labeled as “low-functioning” or “profoundly disabled” to begin with.

Many more of us would be capable of competitive integrated employment (CIE) if we were provided with the reasonable accommodations protected under the ADA, including those that teach and allow us to communicate via augmentative and alternative communication (AAC). Many more of us would be capable of CIE if provided with wraparound services, like occupational and physical therapy, that advance employment outcomes. Disabled people are better positioned to reach our highest potential when we *first* get the fair wages, accommodations, and support services we rightly deserve. We will rise to the occasion when employers, parental advocates, and legislators start fulfilling their responsibilities to us. And even if higher expectations do not lead to decreased support needs over time, disabled people still deserve the right to work in an integrated environment at a fair wage, whether or not we conform to ableist standards.

⁵ Kaiser Family Foundation (KFF). (2022). *State Health Facts: Medicaid Eligibility through Buy-In Programs for Working People with Disabilities*. <https://bit.ly/4eJCl1>

⁶ AARP (2022). *Medicaid Buy-In for Working People with Disabilities*. <https://bit.ly/4bw4hDb>

⁷ Bureau of Labor Statistics. (2024). *News Release: CONSUMER PRICE INDEX – APRIL 2024*. U.S. Department of Labor. <https://bit.ly/45UkdxF>

⁸ Goodman, M. Morris, Z. Morris, McGarity. (2020). *The Extra Costs of Living with a Disability in the U.S. — Resetting the Policy Table*. Stony Brook University, the University of Tennessee, National Disability Institute, and the Oxford Institute of Population Ageing. <https://bit.ly/3xVj0JX>

TCIEA has provisions addressing the needs of people with significant disabilities.

Each application to the State Grant Program under TCIEA must include a description of how the funds will be used to create service delivery infrastructure that will, among other things, provide “enhanced integrated services to support people with the most significant disabilities.”⁹ Applications to the State Grant Program must also include assurances that “individuals with the most significant disabilities, including intellectual and developmental disabilities, who will be affected by such a transformation will be given priority in receiving the necessary competitive integrated employment supports and integrated services to succeed during and after such a transformation.”¹⁰

Competitive integrated employment under TCIEA includes pathways for people with significant disabilities to eventually achieve CIE.

One such pathway is “supported employment.” Supported employment is offered on a “short-term basis” within an integrated environment to people with the “most significant disabilities” who are working toward CIE.¹¹ Supported employment is “intensive” and “individualized and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services.”¹² Supported employment is not segregated and is not paid subminimum wage.

People earning subminimum wage are at a higher risk of living in poverty, even if they are also receiving social security and other forms of financial support. This means that even high-cost government assistance programs are not enough to break many disabled people out of the cycle of poverty. Nearly half of working-age disabled people had annual household incomes under \$30k.¹³ And 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.¹⁴ Having the opportunity to make at least minimum wage, while certainly not

⁹ Transformation to Competitive Integrated Employment Act (TCIEA), S.533 and H.R.1263, SEC. 102, 118th Congress, (2023), <https://bit.ly/3zvhGy0> and <https://bit.ly/3W9zaJb>

¹⁰ Supra.

¹¹ 34 CFR 363.1(a); 34 CFR 363.1(c); 34 CFR 363.1(b)(1) <https://bit.ly/3XOj48Y>

¹² 34 CFR 363.1(b)(2); 34 CFR 363.1(b) <https://bit.ly/3XOj48Y>

¹³ Warren, A., Chege, W., Greene, M., & Berdie, L. (2023). *The Financial Health of People With Disabilities Key Obstacles and Opportunities*. Financial Health Network. <https://bit.ly/3RVm1kn>

¹⁴ 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://bit.ly/3XXs0ZA>

enough to cover the cost of living, would be a step in the right direction toward financial independence. Over time, TCIEA could reduce the number of people relying on government assistance.

Other kinds of home-and-community-based services (HCBS) also fall under the umbrella of programs that increase autonomy. When disabled people are forced to live in institutions, we are unable to work. When disabled people are able to receive services and care in their community, we have the *choice* to work. TCIEA would better position disabled people to have that choice.

While opponents of TCIEA argue that existing community-based and vocational rehabilitation (VR) programs are ineffective, research points to the contrary; well-funded, integrated, person-centered programs that combine several different kinds of support have proven successful. The misperception of these programs as ineffective stems from the experiences of people receiving services in under-resourced states. Rather than arguing that TCIEA should not pass because the government should stop funding “unsuccessful” programs, we hold that TCIEA must pass because the government should increase funding for programs proven to increase autonomy and provide pathways to financial independence.

Any remaining gaps can be filled by Centers for Independent Living. Since their inception, Centers for Independent Living (CILs) have played a vital role in assisting consumers with diverse disabilities in transitioning into competitive integrated employment. Centers for Independent Living are federally funded community organizations for people with disabilities and staffed by people with disabilities. Employment support can be woven into all 5 services that CILs are federally mandated to provide. CILs have demonstrated success providing both job coaching and training as well as the independent living skills necessary to maintain employment. CILs were founded on the concept of “nothing about us without us” and the belief that people with disabilities have the right to self-determination and to the dignity of risk. Dignity of risk is the belief that individuals with disabilities have the right to the freedom to make their own decisions, which may involve risks. Disabled people deserve the deeply human opportunity to make mistakes, learn, grow, and work toward personally-determined goals, just like individuals without disabilities.

Bill Overview

Passing the Transformation to Competitive Integrated Employment Act is a vital step toward correcting the widespread harms documented in the Government Accountability Office’s 2023 report—harms that 14(c) inflicts on people like David Pinno and Donna Spears and on disabled employees more broadly.¹⁵ The goal of TCIEA is to increase cost-effective

¹⁵ Government Accountability Office. (2023). *Subminimum Wage Program: DOL Could Do More to Ensure Timely Oversight*. (GAO Publication No. 23-105116). <https://bit.ly/3xBdCvE>

employment opportunities for disabled people. TCIEA would phase out existing 14(c) certificates over a five-year period, prohibit the issuance of new ones, and provide funding that supports states and businesses with implementing best practices for the gradual transition to competitive integrated employment (CIE). TCIEA also provides a framework states can use to support individuals whose employers do not choose to transition their business practices. As a whole, TCIEA offers realistic alternatives to segregated employment and to subminimum wage.

TCIEA helps 14(c) employees find and retain competitive integrated employment, which may occur at their current place of employment following a program model transformation, or in another CIE setting. To make that happen, TCIEA authorizes grants for state agencies, as well as grants for 14(c) businesses who want to make the transition to CIE but are in states without a state grant. Each grant has different durations and dollar amounts, but both grants help certificate holders strengthen and expand their CIE service delivery system, provide wraparound services for disabled employees, and ensure that those wraparound and other non-employment services comply with the requirements for Home and Community Based Services (HCBS). States receiving grants are required to establish an advisory council to monitor and guide the whole process. These advisory councils must include families, employers, disabled workers, and representatives from relevant state agencies, including but not limited to those responsible for developmental disability services, Medicaid, and vocational rehabilitation.

TCIEA will also fund the operation of a technical assistance center that identifies and disseminates training materials about replicable strategies for transitioning to CIE. To ensure oversight, TCIEA has provisions for reporting and evaluating outcomes.

The Transformation to Competitive Integrated Employment Act lays the groundwork for both businesses and their disabled employees to have better opportunities for advancement. The undersigned organizations highly encourage you to co-sponsor TCIEA and support its passage. Thank you for your time and consideration.

Sincerely,

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)