# Frequently Asked Questions on the

# Transitioning to Integrated and Meaningful Employment Act

**What is Section 14(c) of the Fair Labor Standards Act?**

**What kinds of people are making subminimum wages? Is that a rare circumstance that happens only when the person has a severe cognitive disability?**

**Does Section 14(c) encourage for-profit businesses to hire workers with disabilities?**

**What is an alternative method for employing people with disabilities (i.e. what would a successful transition look like?)**

**Supporters of Section 14(c) argue that 14(c)-certificate-holding entities train workers with disabilities for jobs in the competitive job market. Is that true?**

**I have been to organizations like the ones you’re talking about, and they’re doing great work. Their employees seem happy, and it’s really inspiring. Will they have to shut down if 14(c) is repealed?**

**Some certificate holders claim that they will be forced to fire workers if this bill is passed. What is your response?**

**I think some people really are too disabled to earn the minimum wage.** **What about people with the most significant disabilities?**

**Who opposes the TIME Act?**

**How is the Workforce Innovation and Opportunity Act (WIOA) related to the fair wages issue?**

**Have there been other steps taken to stop the payment of subminimum wages to individuals with disabilities?**

**What happened to the Fair Wages for Workers with Disabilities Act? What was the status of HR 831 at the end of the 113th Congress?**

**How can I learn more about the Transitioning to Integrated and Meaningful Employment Act?**

**Q: What is Section 14(c) of the Fair Labor Standards Act?**

A: Section 14(c) of the Fair Labor Standards Act (FLSA), passed in 1938, allows the Secretary of Labor to issue special wage certificates that permit entities to pay workers with disabilities less than the federal minimum wage. There is no “floor” under the subminimum wages that these workers can be paid. The National Federation of the Blind has obtained information from the Department of Labor that some workers with disabilities are paid as little as $0.00 per hour.

**Q. What kinds of people are making subminimum wages? Is that a rare circumstance that happens only when the person has a severe cognitive disability?**

A: Over 400,000 Americans with disabilities are being paid subminimum wages. Some college graduates have been paid subminimum wages. Some people, whose only disability is blindness, have been paid subminimum wages. One Freedom of Information Act (FOIA) request found that a 14(c) entity was paying an employee $0.22 an hour, and that employee's disability was hearing loss. While it is true that many employees who are paid subminimum wages have intellectual or developmental disabilities, this is not always the case. Regardless, no one should be paid less than the minimum wage because with the proper training and support, any individual can do a job worthy of at least the minimum wage.

**Q: What was the original intent of Section 14(c)?**

A: The original intent of Section 14(c) was to incentivize for-profit businesses to hire people with disabilities. Section 14(c) was passed in 1938 when society’s attitudes about disability were dramatically different than they are today, with most believing that people with disabilities could not work at all, so this incentive was needed for wounded veterans coming home from war to have a chance at finding jobs. But that goal was never realized. Instead, for-profit businesses reject this incentive because they want productive employees; they don’t want to pay a person a lesser wage to do a lesser job. With the proper training and support, people with disabilities can be productive employees, but a 14(c) certificate does not require employers to provide this kind of training or support. Therefore, the minimum wage exemption does nothing to help people with disabilities obtain employment.

**Q: What is an alternative method for employing people with disabilities? (i.e. what would a successful transition look like?)**

Successful employment programs that allow even those with the most significant disabilities to achieve competitive employment—earning at least the minimum wage—already function in almost every state in the nation. Examples of such programs include EmploymentFirst, supported employment, and customized employment. These programs focus on matching a worker’s skills and abilities to a job, rather than simply placing a worker in a predetermined manufacturing position regardless of his or her ability to perform such work. The state of Vermont eliminated the practice of paying people with disabilities subminimum wages altogether in 2002. Vermont now has the highest employment rate of people with disabilities in integrated settings.\* Society will benefit if more states embrace this model because then workers with disabilities can transition to competitive integrated employment and become productive, independent, taxpaying citizens.

\*<http://publicsource.org/investigations/vermont-closed-workshops-for-people-with-disabilities-what-happened-next#.VLQ0V9LF8fY>

**Q: Supporters of Section 14(c) argue that 14(c)-certificate-holding entities train workers with disabilities for jobs in the competitive job market. Is that true?**

A: No, 95 percent of people employed in subminimum wage environments never leave these sheltered environments to take up competitive employment.\* Many 14(c)-certificate-holding entities use outdated manufacturing methods that are not even used by mainstream businesses, and workers who are lucky enough to transition to competitive employment must often unlearn skills and habits obtained in the subminimum wage environment in order to perform their new responsibilities. In fact, there are even documented cases of sheltered workshop employees doing make-work jobs such as folding and unfolding newspapers or counting rocks while moving them from one box to another.\*\*

\*GAO report that reports this statistic can be found at <http://www.gao.gov/new.items/d01886.pdf>

\*\* Stefan, Susan. (2010) [*Beyond Residential Segregation: The Application of* Olmstead *to Segregated Employment Settings*, 26 GA. ST. U. L. REV. 875, 877](http://www.westlaw.com/Link/Document/FullText?findType=Y&serNum=0354002540&pubNum=0100110&originatingDoc=I635eea1b45e111e498db8b09b4f043e0&refType=LR&fi=co_pp_sp_100110_877&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Search)#co_pp_sp_100110_877).

**Q: I have been to organizations like the ones you’re talking about, and they’re doing great work. Their employees seem happy, and it’s really inspiring. Will they have to shut down if 14(c) is repealed?**

A: No. These entities will have three full years to transition their business model from one that relies on a 14(c) certificate to one that provides adequate training for people with disabilities so they can transition into integrated and meaningful employment. If the employees who are being paid subminimum wages feel that they are receiving adequate training, then they can continue their training without receiving a miniscule paycheck until they acquire competitive, integrated employment. This is no different from mainstream workers participating in unpaid internships to acquire job skills.

**Q: Some certificate holders claim that they will be forced to fire workers if this bill is passed. What is your response?**

A: First, many employers of people with disabilities, including nonprofits that hold or have held special wage certificates, have already changed their policies to pay their workers the federal or state minimum wage or higher. These entities are still operating and in fact thriving. For example, almost one hundred of the one hundred sixty-five Goodwill-affiliated agencies state they do not pay their workers with disabilities less than the federal minimum wage.\* Moreover, National Industries for the Blind (NIB) adopted an official policy to pay workers at least the federal minimum wage, and none of NIB’s facilities have gone out of business as a result.

Second, the Transitioning to Integrated and Meaningful Employment Act provides a three-year period for nonprofits to phase out the payment of subminimum wages. No agency will be immediately required to pay its workers higher wages, and thus face a potential shortage of funds, on passage of this legislation. Three years is plenty of time for these entities to use creative strategies and implement reasonable accommodations to help their clients obtain meaningful employment in the community.

Finally, many of these nonprofits receive federal and state contracts, government funding, and generous philanthropic donations. A 2001 Government Accountability Office report found that almost half of the funding for sheltered workshops came from grants and reimbursements to cover support costs. In some cases these operations are so flush with cash that their executives make six-figure salaries while they claim that they cannot afford to pay their disabled workers more than pennies per hour.

\* <http://www.goodwill.org/press-releases/goodwill%C3%82%C2%AE-believes-in-the-power-of-work-for-all-individuals/>

**Q:** **I think some people really are too disabled to earn the minimum wage. What about people with the most significant disabilities?**

A: Visit the following websites for examples of the countless instances in which disabled people have successfully obtained jobs in integrated settings earning real wages.

<http://www.hdi.uky.edu/setp/materials/vignette_v3_blue_508_FINAL.pdf>

<http://www.realworkstories.org/browse-all-stories>

One story is about Joan. She used to work in a sheltered workshop where she was paid less than the minimum wage. Now she works at the Montgomery County Department of Liquor Control as a data entry assistant. She works about eighteen hours a week, and she performs jobs that she does well, such as data entry and preparing documents to be scanned (by removing staples, for example). Joan is just one of many people who have found customized employment jobs through internships and the creativity of customized and supported employment specialists.

Other stories involve individuals who may not be able to read, write, speak, or walk, but have the mental capability to perform meaningful work with proper accommodations. One such individual delivered the mail for a big organization by matching shapes and colors. If a red triangle represented Mr. Jones, a red triangle would appear on a box full of Mr. Jones’s mail and his desk. The individual with a disability simply had to move the box from the mailroom to the office. In the process he saved the mailroom operators’ time.

**Q: Who opposes the TIME Act?**

A: Only Section-14(c)-certificate-holding entities oppose the Transitioning to Integrated and Meaningful Employment Act. Most entities lobby for the continuation of Section14(c) because many of its contract holders pay people with disabilities subminimum wages in order to maintain their warped business model. Virtually all national consumer disability organizations (those that are primarily run by people with disabilities) join us in our effort to repeal Section 14(c) of the FLSA. Organizations that provide rehabilitation services to disabled persons, as well as employers of people with disabilities, also support this initiative. You can download an up-to-date list of supporting organizations at https://nfb.org/images/nfb/documents/word/opposition\_list\_section\_14c\_20150114.doc.

**Q: How is the Workforce Innovation and Opportunity Act (WIOA) related to the fair wages issue?**

A: While WIOA takes a step in the right direction, it does not solve the subminimum wage problem for people with disabilities. Section 511 of WIOA, Limitations on Use of Subminimum Wage, will reduce the number of youth tracked into subminimum wage employment, but any individual aged twenty-five or older can still legally take a job that is compensated at a subminimum wage.

**Q: Have there been other steps taken to stop the payment of subminimum wages to individuals with disabilities?**

A: The Department of Justice stepped in to stop the payment of subminimum wages to individuals with disabilities from Rhode Island. It was found that the state of Rhode Island relied on segregated work settings (sheltered workshops) too often, and as a result, over three thousand Rhode Islanders will be receiving the supported employment services they need.\* Seven hundred of these individuals will be leaving sheltered workshops.

In addition, in May 2015, New Hampshire became the first state to pass legislation (S.B. 47) that bans the practice of paying people with disabilities subminimum wages.

\* <http://www.ada.gov/olmstead/olmstead_cases_list2.htm#ri-state>

**Q: What happened to the Fair Wages for Workers with Disabilities Act? What was the status of H.R. 831 at the end of the 113th Congress?**

A: The Transitioning to Integrated and Meaningful Employment Act is *exactly* the same as the Fair Wages for Workers with Disabilities Act except for the title. At the conclusion of 113th Congress, the Fair Wages for Workers with Disabilities Act (H.R. 831) had ninety-seven cosponsors. Congressman Gregg Harper (R-MS) was the sponsor of H.R. 831 and is now the sponsor of H.R. 188: the Transitioning to Integrated and Meaningful Employment Act.

In addition, in August 2015, Senator Kelly Ayotte (R-NH) introduced S. 2001, a companion bill to H.R. 188.

**Q: How can I learn more about the Transitioning to Integrated and Meaningful Employment Act?**

A: Visit <http://www.nfb.org/fair-wages>.