



Testimony of Rose Sloan, Government Affairs Specialist, National Federation of the Blind
Before the Advisory Committee on Increasing Competitive
Integrated Employment for Individuals with Disabilities
January 23, 2015

Thank you, members of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, for considering the testimony of the National Federation of the Blind—the oldest and largest organization of blind Americans. The National Federation of the Blind recognizes that low expectations create obstacles between people with disabilities and our full vocational potential. Although Section 14(c) of the Fair Labor Standards Act (FLSA) is not the sole culprit of these misguided, engrained beliefs, it is a huge contributing factor, because this provision actually codifies the concept that people with disabilities are “less than.” People with disabilities can be legally paid less than any other employee. The expectations for people with disabilities are literally zero as there is no floor on how low wages can go. As the Committee explores ways to increase employment opportunities for individuals with intellectual or developmental disabilities, we urge you to see how these low expectations manifest in practical, profoundly damaging ways.

For example, Opportunity Village, a 14(c)-certificate-holding nonprofit in Las Vegas, Nevada, employs over six-hundred individuals with disabilities under Section 14(c) of the Fair Labor Standards Act. The National Federation of the Blind reviewed their application for authority to employ workers with disabilities at subminimum wages (see attached) and found that almost a third of all individuals with disabilities employed under Section 14(c) by Opportunity Village were paid \$0.00 per hour. Even more horrifying, one particular organization (Welfare Document Imaging #644 located at 451 E. Lake Mead Parkway in Henderson, Nevada) paid all of their Section 14(c) employees \$0.00 per hour. This means that the undercurrent of low expectations felt by Members of Congress in the 1930s, when the FLSA was drafted, has manifested in 2015 to mean hundreds of people with disabilities are literally working for free. This program exploits people with disabilities, and we are skeptical if it can be fixed. We recommend the discontinuation of the program altogether.

It was not so long ago that blind people were thought of as incapable individuals who could not hold integrated and competitive jobs. Now it is generally accepted (although not as widely as we are striving for) that blind people can be productive employees. Sometimes this calls for reasonable accommodations or customized support. Other times it might simply take quality training or proper services. Either way, we now know that it was the low expectations that held blind people back, not any real limitations to our capacity. Today, people with significant intellectual and developmental disabilities are fighting for the same paradigm shift. We sincerely hope that the committee will think about successes achieved by the blind, how we can apply those lessons to conversations about people with significant disabilities, and how we can take those successes to the next level. As blind people have proved, and people with intellectual and developmental disabilities are proving every day, people with all types of disabilities with the proper training and support can be productive employees.

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As the committee investigates the use of 14(c) certificates and develops recommendations on how to improve oversight of the program, we urge you to be wary of misrepresentation around the subject of job training. Subminimum wage jobs have never acted as a stepping stone to competitive, integrated employment. According to a Government Accountability Office report (2001), less than 5 percent of people with disabilities working in subminimum wage jobs transition into competitive, integrated employment. 14(c)-certificate-holding entities do not currently have an incentive to help their subminimum wage workers find integrated, competitive employment. These entities will receive government funding, such as Medicaid and Vocational Rehabilitation dollars (National Disability Rights Network, 2011), whether people with disabilities obtain integrated, competitive employment or not.

The state of Vermont eliminated the practice of paying people with disabilities subminimum wages altogether in 2002. According to a 2014 article, Vermont now has the highest employment rate of people with disabilities in integrated settings (Stockman, 2014). Vermont was able to do this by disallowing funding from their Division of Disability and Aging Services to be used toward sheltered employment settings. Incrementally, the rules became stricter—initially the growth of sheltered workshops was stopped, and eventually they were banned altogether. Vermont now hosts a workshop to assist other entities transition to an integrated, competitive business model that provides meaningful employment for people with disabilities (Vermont APSE, 2014); any entity that claims to provide “job training,” but cannot boast similar results as Vermont is undermining our collective goal to improve employment outcomes for people with disabilities. In fact, Vermont illustrates that it was the rejection of the 14(c) program that is what ultimately produced the best employment outcomes. Any oversight of the Section 14(c) program must recognize this significant disconnect.

Although Vermont is a good success story, it is important to remember they gradually phased out Section 14(c). The National Federation of the Blind recognizes that discontinuing Section 14(c) immediately will not necessarily benefit people with disabilities. Instead, we recommend a gradual phase out of Section 14(c). This way, all entities that hold Section 14(c) certificates will have time to transition their business model to ensure that all employees with disabilities are either paid at least the minimum wage in their current job setting or are provided proper training and support to ensure they are able to obtain competitive employment in their community. We know that this ambitious goal can be achieved not only because of the success in Vermont, but because many entities have also successfully transitioned.

For example, on September 30, 2011, the Chicago Lighthouse for People who are blind or visually-impaired wrote an open letter to all community service providers holding a Special Wage Certificate explaining they no longer utilize their Section 14(c) certificate and intend to surrender it (Szlyk, 2011). Melwood, an organization in Maryland that employs over seven-hundred individuals with disabilities recently changed their wage policy for their employees with disabilities. They used to pay employees with disabilities subminimum wages, but CEO Cari DeSantis publicly stated that: “it is wrong to pay people with disabilities less than the minimum wage. Melwood’s employees work hard ... and quite frankly they do a good job. They deserve, at the very least, to earn the minimum wage. That is why, when I became the organization’s CEO almost a year ago, I ended the practice of paying workers with disabilities less than the minimum wage despite the 14(c) certificate program.” (DeSantis, 2014).

The best way to ensure that people with disabilities have more integrated and competitive work opportunities is to phase out Section 14(c) altogether. However, we recognize that the Committee is limited in its authorized authority; so as you carry out some of your charges, we hope you will replace the antiquated tone behind the words of Section 14(c) and replace it with an outlook that 14(c) merely justifies

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society's incorrect notion that people with disabilities are not worthy of even the minimum wage. Entities such as the Chicago Lighthouse and Melwood show that recent Section-14(c)-certificates holders can still be profitable without them, because with the proper training and support, people with disabilities can be valuable employees. We urge you to integrate this philosophy into all of your recommendations, and hope that one will include the ultimate recommendation of responsibly phasing out Section 14(c) of the Fair Labor Standards Act. Thank you for allowing the National Federation of the Blind to submit our testimony.

Works Cited:

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