

July 1, 2015

Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities
U.S. Department of Labor
Suite S-1303
200 Constitution Avenue, NW
Washington, DC 20210

Dear Committee Members:

As an organization with a long history of providing employment and valuable services and supports to people with employment challenges, including those with disabilities, Goodwill Industries International, Inc. (GII) appreciates this opportunity to submit comments on the work of the Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities (the Committee). The Committee was created with the purpose of providing recommendations on the following areas:

- Ways to increase employment opportunities for individuals with intellectual or developmental disabilities or other individuals with significant disabilities in competitive integrated employment;
- The use of certificate program carried act under section 14(c) of the Fair Labor Standards Act (FLSA) for the employment of individuals with intellectual or developmental disabilities or other individuals with significant disabilities; and
- Ways to improve oversight of the use of such certificates.

While the Committee has a specific focus, Goodwill® is pleased to see that the scope of the subcommittees and information provided to the Committee recognizes the full array of supports and services that are necessary for individuals with disabilities and their families to succeed. While a variety of tools can connect people with disabilities to the workforce, including the Special Minimum Wage Certificate, a job in and of itself is only one of many elements on which people rely to achieve community integration.

Disparities in labor force participation

The Committee faces a substantial challenge in crafting recommendations for ways to increase competitive integrated employment for people with significant disabilities when the data paints such a bleak picture. In May 2015, the U.S. Bureau of Labor Statistics (BLS) reported only 19.8 percent of people with disabilities were participating in the labor force compared to 68.8 percent of persons without disabilities. Furthermore, the unemployment rate for people with disabilities was 10.1 percent compared with 5.1 percent for persons without disabilities, not seasonally adjusted. One in five adults living in the United States has a disability, and more than 22 million families nationwide have one or more members with disabilities.

Special Minimum Wage Certificate data is outdated

Under Section 14(c) of the Fair Labor Standards Act (FLSA), any employer with a Special Minimum Wage Certificate from the U.S Department of Labor's (DOL's) Wage and Hour Division (WHD) can pay special minimum wages to employees with disabilities if those disabilities directly impact their ability to perform on the job. Based on November 2013 figures from DOL, there were 1,971 employers with issued certificates and 1,344 employers with pending certificates. In some cases, a single employer may have an issued certificate as well as a pending renewal.

The most recent federal analysis of certificate use, a 2001 Government Accountability Office (GAO) report, indicated approximately 424,000 workers with disabilities were paid special minimum wages in 2000. This nearly a decade and a half old study is informative but is significantly dated and should no longer be cited as a source for policy making or proposal development. GAO produced this report concurrent with the Rehabilitation Services Administration's regulatory change related to special minimum wage employment as acceptable outcomes for State Vocational Rehabilitation Agencies; the Social Security Administration was still struggling to issue regulations for the Ticket to Work program; and, Medicaid Waiver demonstrations and Medicaid Infrastructure Grants related to integration had yet to begin in earnest. Today's policy context is vastly different from 2001, with new Medicaid Waiver expectations concerning integration, the rapid development of Employment First policy frameworks in 46 states, and the growing State Employment Leadership Network. These changes, along with changes in both the economy and the workplace, have led to a reduction of individuals compensated for work via the Certificate. At the first meeting of the Committee, DOL staff noted there were approximately 151,000 people working under a Special Minimum Wage Certificate.

The Committee should examine the following questions pertaining to the data:

- What caused the significant decline since 2001?
- Have more people moved into competitive integrated work, have more people been receiving day services, or both?
- How do Community Rehabilitation Providers (CRPs), school work experience programs, business certificate holders, and employers of patient workers utilize the certificate differently?
- How did organizations transition away from the use of a certificate and, more importantly, what was the experience of the individuals who had been paid utilizing the certificate?

A recently published case study undertaken by the CHIMES Foundation and researchers from The George Washington University regarding the impact of Maine Public Law Chapter 101, which directed state agencies to increase supported and integrated employment opportunities for people with disabilities and ultimately close its center-based programs, found decreased employment and hours work due to multiple factors including: challenges with job placements; a cap on the number of hours worked per week; difficulty keeping jobs in the community; long wait times for vocational rehabilitation assessments, age, and level of disability among others. This report, [Transitions: A Case Study of the Conversion from Sheltered Workshops to Integrated Employment in Maine](#), studied the experience of people with significant disabilities who were employed by sheltered workshops as well as providers who formerly operated center-

based programs in Maine. Research and analysis can be found on both sides of the issues, therefore the Committee should recommend funding a long-term study to track 100 percent of the program participants following the closure of a center-based program.

All People Can Work

Goodwill prepares people with disabilities for a variety of positions in industries including retail, banking, hospitality, food service, packing and assembly, manufacturing, and health care. Our collective aspirations for people with significant disabilities include opportunities for choice, to earn wages, to reach their potential, to experience improved quality of life, and to achieve social acceptance and integration. Services are customized with and for the individual, including his or her support system, leverage community resources, and are delivered recognizing that the individual is both the leader of his or her service plan and a customer of Goodwill.

Goodwill has a strong track record of using and innovating an array of employment tools and strategies to provide job opportunities and services that help people mitigate their employment challenges. In 2014, nearly 2 million people accessed job training and placement services through Goodwill, including 330,000 individuals who reported a physical or mental disability..

In 2014, 63 Goodwill agencies utilized the certificate as an employment tool in varied means. Some place a time restriction on employment using the certificate; other agencies have a self-imposed wage floor; still others maintain a minimum productivity level for one to work using the certificate. Collectively, these agencies provided nearly 630,000 instances of supported employment. The majority of Goodwill agencies that maintain a certificate utilize it on AbilityOne contracts, largely paying higher than the federal minimum wage. New rules in effect following President Obama's Executive Order to increase the wages of federal contractors to \$10.10 could further impact those employees. While agencies may utilize the certificate in different manners, they share a common purpose of increasing employment opportunities and addressing the interests and needs of the individual. Working in a center-based environment or using the Special Minimum Wage Certificate is not the default placement option for those seeking employment and services with Goodwill.

The numbers of Goodwill agencies using the certificate and individuals working under the certificate have decreased over the years as agencies innovate new services and work with community partners. A group of 25 member Goodwill leaders meet regularly to discuss best practices and lessons learned as they transition away from the certificate and/or create additional integrated employment opportunities. Timing of transitions should be customized to address a number of factors need including but limited to buy-in from employees and family members and how can a transition take place that does not take away an opportunity for an individual to work.

Creating Solutions Together

Goodwill Industries[®] was supportive of the bi-partisan agreement put forth by members of the Senate Health, Education, Labor and Pensions (HELP) Committee in the Workforce Innovation and Opportunity Act (WIOA). This agreement, Section 511 of the bill, focuses on transition-age youth with disabilities. Goodwill is optimistic that Section 511 will result in an increase in the number of transition-aged youth entering and succeeding in competitive integrated employment.

Goodwill also supports policies that would increase employment-first initiatives and supported employment programs.

Given the focus of the Committee, Goodwill recommends the following:

- Increase penalties and enforcement
- Enhance data and record keeping
- Ensure self-determination and informed choice
- Develop career pathways/youth pathways
- Limit certificate holders to accredited nonprofit employers defined as community rehabilitation providers (CRPs)
- Refine eligibility criteria for those who can work under a certificate
- Examine the potential of a wage floor
- Examine limiting use of the certificate for a specified time
- Conduct a long-term study examining the impact to program participants following the closure of center-based programs

As the Committee moves forward with its work to craft recommendations on ways to increase integrated competitive employment opportunities for people with disabilities, Goodwill remains committed to being a valuable resource and partner. On behalf of Goodwill Industries International and its network of 158 community-based Goodwill agencies in the United States, thank you for the opportunity to comment. Should you have any questions pertaining to Goodwill Industries' comments, please contact me at jim.gibbons@goodwill.org or 240-333-5202, or Laura Walling, GII Director of Advocacy and Legislative Affairs, at laura.walling@goodwill.org or 240-333-5378.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Gibbons", with a long horizontal flourish extending to the right.

Jim Gibbons
President and CEO