



Education and Workforce Committee

Work, Dignity, and Choice in Disability Employment

Speaking in support of a Best Practices Dialogue on Disability Employment
and in support of the 14c Certificate Program and Special Minimum Wage

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Written Testimony Submitted to the House Education and Workforce Committee

Field Hearing: “Work, Dignity, and Choice in Disability Employment”

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Submitted by: Kit Brewer, Vice President, Coalition for the Preservation of Employment Choice (CPEC)

Introduction

Chairman Walberg, Members of the Committee, and distinguished guests, thank you for the opportunity to submit this written testimony regarding the ongoing debate surrounding Section 14(c) of the Fair Labor Standards Act (FLSA) and its impact on individuals with disabilities, their families, and the broader disability community. My name is Kit Brewer, Vice President of the Coalition for the Preservation of Employment Choice (CPEC). I respectfully present this testimony to inform and support the Committee’s deliberations at this field hearing.

Overview of Section 14(c) of the FLSA

Section 14(c) of the FLSA permits the U.S. Department of Labor to issue Special Minimum Wage Certificates to organizations employing and providing vocational training to individuals with disabilities. These certificates enable wages to be calculated based on each individual's productivity, ensuring that employment opportunities are tailored to personal capabilities. The program is strictly regulated, requiring annual or biannual certificate renewals and compliance with detailed wage calculations.

Participants in 14(c) certificate programs must be notified and acknowledge their understanding of the special minimum wage arrangement. Participation is voluntary, and individuals retain the right to seek alternative employment or other services at any time.

The Workforce Innovation and Opportunity Act (WIOA), enacted in 2014, mandates that every 14(c) participant meets annually with the State Vocational Rehabilitation or Designated State Unit (DSU) Counselor. These meetings provide information about Competitive Integrated Employment (CIE) and introduce other available support and service providers for individuals with disabilities.

It is clear that participation and employment within 14(c) Certificate Programs is an individual, and informed choice.

Community Support and Stakeholder Feedback

This employment program is strongly favored by participants, their families, and their support networks. During three major events—the 2019 Civil Rights Commission Hearing, the 2023 Department of Labor Engagement Sessions for Stakeholders of 14(c), and the public comment period for the 2024 DOL Proposed Rule to Phase Out 14(c) (89 FR 96466)—stakeholders consistently voiced appreciation for the program and concerns about threats to its existence. The Civil Rights Commission Hearing saw an overwhelming 98% of comments endorsing the program. During the Engagement Sessions, hundreds of individuals were unable to speak due to limited slots. Overwhelming public comment ultimately led the Department of Labor to withdraw the proposed rule, recognizing the 14(c) Certificate Program as a preferred and effective solution for part of the disability community. *“... the continued existence of tens of thousands of workers utilizing the section 14(c) program suggests a nonzero population for whom section 14(c) remains necessary. That inference is bolstered by comments asserting that many individuals with significant disabilities would face unemployment, underemployment, or loss of ancillary services if 14(c) options were eliminated.”* Federal Register July 7, 2025

Challenges and Opposition

Despite strong support, calls for program closure persist. Opposition groups have advanced misleading narratives based on incomplete data and flawed analysis, placing undue pressure on providers, state legislatures, and business partners. As a result, thousands of individuals have been displaced from successful employment programs into alternatives they did not choose, such as unsuccessful shifts toward CIE, unpaid day habilitation, or community engagement programs—sometimes labeled voluntary, despite a lack of other options. Individuals and programs have suffered due to the ideology that everyone can and wants to transition to competitive employment.

Historical Context and Evolution

The Fair Labor Standards Act, established during the Great Depression, set national standards for fair labor practices, including the first federal minimum wage. Section 14(c) acknowledged the unique barriers faced by people with disabilities, allowing for a special minimum wage as a solution. Over time, Section 14(c) and related programs have evolved, adapting to Legislative initiatives such as the ADA and WIOA, additional funding, and societal changes and shifting cultural attitudes.

These changes have reduced barriers for many sections of the disability community. 14(c) Programs now employ almost exclusively individuals with Intellectual and Developmental Disabilities (IDD)(GAO-23-105116), for whom it remains a successful option.

Recent trends, however, have overshadowed the FLSA's founding principle of nationwide labor standards. The program's existence is in jeopardy as some states limit funding and access or seek to eliminate this employment choice entirely. This inconsistent application of a federally authorized program leaves nearly half of the nation's IDD population without this valuable opportunity.

State-Level Elimination and Impact

Although federally authorized, the program is no longer available in 16 states. These states have used varying strategies to eliminate 14(c), such as defunding, criminalizing Special Minimum Wages, and redefining "community," "segregation," and "inclusion" in regulatory and funding contexts.

14(c) programs employ diverse individuals spanning race, socio-economic status, ethnicity, culture, religion, sex, sexuality, age, and disability diagnoses. Nevertheless, facilities are often labeled as segregated because 95% of participants have IDD as a primary or secondary diagnosis. It is important to ask whether it is truly segregation when individuals choose employers and settings with supports tailored to their needs, that are otherwise unavailable in competitive employment. The sense of community and inclusion fostered within these programs is often misunderstood or undervalued by ideological opponents.

Scope and Reach of the 14c Program

14(c) certificate holders serve only a small segment of the disability community—approximately 150,000 to 250,000 nationwide, if the program were accessible in all states. In 2024, 45.8 million Americans (13.7% of the population) were identified as having a disability; the program serves less than half of one percent of this group. 14(c) was never intended to serve the entire disability community. While it is intended to provide specialized supports for a small, specific population, that population is not insignificant nor can its needs be ignored. Every individual deserves the opportunity to make informed choices about employment and services, with their decisions respected and supported. The lived experiences of many families highlight the importance of safety, security, and acceptance offered by 14(c) providers.

Federal Legislative and Policy Developments

The debate over 14(c) certificates extends to the federal level, with multiple legislative proposals, policy directives, departmental memos, and funding mechanisms advocating for their elimination. Examples include minimum wage legislation, the Transformation to Competitive Employment Act, the failed SWTCIE Grant program, proposed language in WIOA reauthorization, and the recently withdrawn DOL Proposed Rule. WIOA has already been used to restrict this employment option for younger individuals until after their 25th birthday, often leaving them without viable employment options for years after high school.

The Missouri Difference

Section 511 of WIOA demonstrates that federally authorized programs are shaped by state policies, funding, and community norms, resulting in varied implementation. Missouri's Extended Employment Sheltered Workshop Program (EESW), regulated by the state Department of Education under Special Education, exemplifies successful collaboration with the state's Vocational Rehabilitation Program (VR). That relationship led Missouri to be fully WIOA compliant shortly after implementation in 2016 and is now providing better access to 14(c) employment for youth under age 25. Missouri EESWs have hired 132 individuals under age 25 into the program thus far in the fiscal year (July 1, 2025- January 31, 2026). That figure more than doubles youth hires in the rest of the nation combined.

EESW is funded through Missouri's General Revenue under the Special Education budget, operates as a social-entrepreneurial business, and relies on local support and fundraising rather than federal Medicaid funding.

Call for Best Practices and Standardized Data

State-by-state variances underscore the need for a dialogue centered on Best Practices rather than service elimination. Information in this area is scarce, as there is no requirement or system for collecting national transition data, and definitions of transition success differ among states and programs.

The GAO's recent attempt to gather data on transitions in states that eliminated 14(c) revealed significant gaps, with many states unable to track participants after program closure. Available data from Colorado and Oregon, the two states able to provide data for the GAO's report showed that states could track fewer than half of the former 14(c) participants. More than half of those tracked did not successfully move to competitive integrated employment, and those who did often experienced a reduction in work hours, creating challenges for families, including an inability to duplicate service and employment hours. This forces families to pay for additional coverage or to take on a larger care giver

role. In some instances, family members were forced to end their own careers to take on that role.

“(W)e looked at what happened in Colorado and Oregon—two states that eliminated subminimum wage employment. These states were collectively able to track roughly 1,000 people who transitioned out of this type of employment. Among that group:

- *Less than half (39-46%) of workers had found other jobs earning at or above minimum wage.*
- *The remaining 54-61% were not working, but continued to receive Medicaid-funded services that, for example, help build employment readiness, socialization, and daily living skills.*

Both Colorado and Oregon told us they were unable to track outcomes for about 1,000 people who stopped receiving Medicaid services. These people may or may not be working, may have retired, lost Medicaid eligibility, or may no longer be living.” GAO.gov/blog May 1, 2025

To properly evaluate the future of 14(c) and related programs, standardized terminology and mandated tracking of employment and services data across all programs and funding sources is needed.

Consideration of Federal Preemption

The FLSA provides 14(c) to protect and support work opportunities for people with significant disabilities. It is an exception to the minimum wage law, allowing instead for a commensurate wage. In its recent notice ending the 14c phase out rulemaking, the Department of Labor indicated when referring to state actions to end 14c programs that "the existence of such state laws do not bear on the Department's statutory obligations under section 14(c)." These are mandatory federal obligations. The issue of whether states can "opt-out" of a federal law creating an exception to the minimum wage to protect employment opportunities for people with significant disabilities is an issue that has not been adequately addressed at the federal level.

Fundamental Principles and Closing Remarks

Advocates for disability services and employment can agree on several fundamental principles:

- Everyone should have the opportunity to pursue their goals and aspirations.
- Multiple and varied opportunities are essential for success.

- Individuals must be active participants in their own self-determination, with access to information necessary to make informed decisions.
- Compensation, benefits, services, and staffing should be adaptable to individual needs, with obstacles reduced or removed wherever possible.
- No program or service is universal; the disability community is not a monolith.

Neither 14(c) nor any other service program is counter to these principles. The best interests of the entire disability community should guide all discussions.

As Vice President of CPEC, I close by respectfully submitting two Coalition documents for the Committee's consideration: a white paper on the 14(c) Certificate Program and a detailed legal examination of the program, previously offered as public comment to the 2024 DOL Proposed Rule.

Thank you for your attention and consideration.

Submitted by: Kit Brewer

Vice President, Coalition for the Preservation of Employment Choice (CPEC)