

14(c) Position Statement – The Arc of Monroe

On behalf of New Yorkers with disabilities and their parents/family members, The Arc of Monroe **firmly opposes** legislation in the U.S. House of Representatives proposed to eliminate section 14(c) of the Fair Labor Standards Act.

As Congress weighs proposals for supporting individuals with disabilities and expanding competitive community employment, it should consider the special needs of those who may not have access to or be able to retain competitive employment. Eliminating Section 14(c) would effectively reduce the number and diversity of employment opportunities available to them.

The ultimate goal of subminimum wage is to establish equal opportunities for all. By enabling companies to participate in Section 14(c) of the FLSA, individuals with disabilities benefit in three major ways: overall support, finances, and life enrichment.

Wages aside, perhaps the most significant impact that Section 14(c) brings to workers with disabilities is the sense of accomplishment and self-worth for a job well done. With the ability to work and be productive, individuals with disabilities continue to develop social skills, as well as enrich their own lives and the lives of others around them.

Section 14(c) of the FLSA authorizes employers, after receiving a certificate from the Wage and Hour Division, to pay subminimum wages - wages less than the Federal minimum wage - to workers who have disabilities for the work being performed. Section 14(c) does not apply unless the disability actually impairs the worker's earning or productive capacity for the work being performed. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a subminimum wages.

Subminimum wages must be commensurate wage rates - based on the worker's individual productivity, no matter how limited, in proportion to the wage and productivity of experienced workers who do not have disabilities performing essentially the same type, quality, and quantity of work in the geographic area from which the labor force of the community is drawn. The key elements in determining commensurate rates are:

- Determining the standard for workers who do not have disabilities, the objective gauge against which the productivity of the worker with a disability is measured.
- Determining the prevailing wage, the wage paid to experienced workers who do not have disabilities for the same or similar work and who are performing such work in the area. Most SCA contracts include a wage determination specifying the prevailing wage rates to be paid for work on the SCA contract.
- Evaluating the quantity and quality of the productivity of the worker with the disability.

All subminimum wages must be reviewed and adjusted, if appropriate, at periodic intervals. At a minimum, the productivity of hourly paid workers must be reevaluated every six months and a new prevailing wage survey must be conducted at least every twelve months.

If the subminimum wage certificate program is repealed, there will be fewer job opportunities for people with disabilities, leading to an even higher rate of unemployment among this population. This repeal would increase support costs for the state, minimize choice for people we support, and take a

giant step backward in employment and integration for people with disabilities. The new employment models across the state are valued integrated businesses, meeting local community needs.

Many of the people in our 14(c) services do not fit into another service, they are too advanced to be fulfilled in a day habilitation program, but have needs that prevent them from being successful in supported employment. Work is a valued activity for people with disabilities as it promotes independence, builds self-confidence, allows for development of lasting friendships, and enables people to participate in the work environment, thus earning a paycheck – while generating income.

If 14© is Eliminated

Providing people with choice on how they want to spend their day is a central tenant of supports and services. If 14(c) is eliminated, people will be forced into programs and activities that they may not find fulfilling or it is not what they desire. Worse yet, if volunteering becomes the program replacement of choice, we will then go from paying someone less to not paying them at all.

Employment creates opportunities. As an advocate for individuals with disabilities, The Arc of Monroe feels it is our responsibility to educate and empower people to make their own informed decisions, especially when it comes to employment. While the community of individuals with disabilities has overcome a lot of barriers, we still have an uphill climb.

The Arc of Monroe encourages those in the U.S. House of Representatives to vote **NO** against eliminating section 14(c) of the Fair Labor Standards Act.