

## **Toolkit for Advocates**

Exciting news! On December 4<sup>th</sup>, 2024, the Department of Labor (the “Department”) issued a Notice of Proposed Rulemaking (NPRM) that would phase out the practice of paying people with disabilities below minimum wage (“subminimum wage”) under Section 14(c) of the Fair Labor Standards Act. Specifically, the rule would stop employers from being able to apply for new 14(c) certificates and would help businesses that currently use 14(c) certificates have a one-time three-year extension to transition from sheltered workshops to competitive integrated employment. The public has until January 17, 2025 to submit comments to the Department to let them know whether or not they support the proposed rule and have any suggestions for its implementation.

We need your help to let the Department know how you feel about this rule by submitting your own comments. The toolkit below explains more on what an NPRM is, why it is important, and how you can submit comments to support this rule and help end the practice of paying people with disabilities subminimum wage. Together, we can help everyone get the fair pay they deserve!

### **FAQs**

#### **What are 14(c) certificates?**

14(c) certificates are waivers issued by the U.S. Department of Labor that allow employers pay people with disabilities subminimum wage as outlined under Section 14(c) of the Fair Labor Standards Act of 1938. Although the number has been steadily decreasing as policies change and new opportunities and higher expectations for people with disabilities have emerged, there are still over 700 certificate holders that pay around 40,000 people with disabilities below the minimum wage. The average employee working under a 14(c) certificate makes \$3.50 an hour, while the federal minimum wage is \$7.25.

#### **What is competitive integrated employment (CIE)?**

Competitive integrated employment is when people with disabilities work alongside non-disabled peers, earning at least the minimum wage, while having the same opportunities for promotions and other employee benefits.

#### **What is a Notice of Proposed Rulemaking?**

A Notice of Proposed Rulemaking (NPRM) is when a government agency tells people about a new rule it wants to make and asks for their opinions. After getting feedback, the agency decides whether to make changes before finalizing the rule.

#### **Why is it important to comment on this NPRM?**

Your voice and your stories matter! Just like when you talk to elected officials about different bills to make legislative change, NPRMs are a chance for you to advocate for change with federal agencies. The more people who submit comments in support of the proposed rule, the more likely it is that the Department will finalize this rule to make it permanent. Numbers DO matter, so please take a few minutes to submit a comment (even if it's only 2-3 sentences long).

### **How to submit comments?**

To submit comments to the Department of Labor, you can visit this page on the [Federal Register's website](#). Then, you can click on the big green button that says, "SUBMIT A PUBLIC COMMENT", which will ask you to submit your comment, email, and your name. The next section will have some more examples of what you can say in your comments. It is important that you submit your own comments, and don't copy from someone else. If two or more identical comments are submitted, the Department will only count it as 1. We need as many unique comments as possible to make sure we put this rule into place!

***REMEMBER: comments are public, unless you select the anonymous option.***

### **What to include in your comment:**

- Begin your comment by saying that you **support** this proposed rule from the Department of Labor.
- Talk about your identity: whether you are a person with Down syndrome, a family member, a friend, a caregiver, or just a concerned citizen. Your perspective is important.
- Talk about your history with employment
  - Talk about how much you earn at your job or how much you earned at other jobs
  - Talk about your experience if you have worked in a sheltered workshop, and how it made you feel to earn pennies on the dollar
  - Talk about why making at least the minimum wage is important for people with disabilities
  - Talk about why competitive integrated employment (working with nondisabled people in the community earning at least minimum wage) is important for people with disabilities.
  - Even if you've never worked at a sheltered workshop, your perspective still matters!
- If you do not yet have a history of employment (e.g., for families with younger children), you should submit a comment anyway and discuss your expectations for yourself or your family member to obtain CIE and not earn less than minimum wage

Try to keep your comments as short as possible. Your comment should not contain more than 1000 words. This is your chance to advocate and share your story, so make it your own!

**What NOT to include to in your comment:**

- Do not share any private information like your email address, your home address, or pictures/videos. It is ok to mention what state you are from to show geographic diversity.
- Do not talk about other issues that impact people with disabilities. The Department of Labor is only interested in reading comments about their proposed rule outlawing subminimum wage.
- Do not submit multiple versions of the same comments. If two or more comments are submitted that are identical, the Department of Labor will only count it as 1! It is important to submit as many unique comments as possible.

**Statistics you can consider adding to your comments:**

- The Government Accountability Office (GAO) estimates that 90% of workers employed under 14(c) certificates have an intellectual or developmental disability.
- More than 50% of employees working under 14(c) certificates make less than \$3.50 an hour, and 14% make under \$1.00 an hour
- States that have phased out the use of 14(c) certificates have seen increases in employment rates for individuals with intellectual and developmental disabilities.
  - o New Hampshire: 6.6% increase in employment rate of people with I/DD
  - o Maryland: 11.9% increase in employment rate of people with I/DD
  - o Vermont: 24.5% increase in employment rate of people with I/DD
  - o More information on employment rates for people with I/DD can be found on the [Association of People Supporting Employment First \(APSE\)](#) website

Submitting comments to the federal government is an exciting opportunity for advocates, but it can also be confusing! If you have questions, please contact Kevin Ryle with National Down Syndrome Society ([kryle@ndss.org](mailto:kryle@ndss.org)).

Thank you for your help in working to end the discriminatory practice of paying people with disabilities subminimum wage.

