May 20, 2026

The Honorable Tim Walberg, Chairman
U.S. House of Representatives
Committee on Education and Workforce
2266 Rayburn House Office Building
Washington DC 20515

The Honorable Robert "Bobby" Scott, Ranking Member
U.S. House of Representatives
Committee on Education and Workforce
2328 Rayburn House Office Building
Washington DC 20515

Dear Honorable Chairman Walberg and Ranking Member Scott:

I am writing as Acting Chairman of the National Council on Disability (NCD) – an independent, bipartisan federal agency that advises Congress, the President, and other federal agencies on matters affecting the lives of people with disabilities – to express concern with the Restoration of Employment Choice for Adults with Disabilities Act (H.R. 8736), set for markup this week, which is a bill that could expand the use of subminimum wages paid to people with disabilities; and to express the alignment of the Transformation to Competitive and Integrated Employment Act (H.R. 4771), introduced last July, with our previous recommendations to Congress.

NCD provides policy advice based on comprehensive and objective analyses to inform policy development, improvement, and enforcement efforts. In 2012 and 2018, NCD issued reports on subminimum wages and related topics and has consistently recommended that policymakers eliminate subminimum wages paid to people with disabilities as an 88 year-old vestige of the past wholly incompatible with high expectations for people with disabilities and modern disability employment policies.[1]

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[1] National Council on Disability, *Subminimum Wage and Supported Employment* (2012), at: https://www.ncd.gov/report/national-council-on-disability-report-on-subminimum-wage-and-supported-employment/; *From the New Deal to the Real Deal: Joining the Industries of the Future* (2018), at: https://www.ncd.gov/report/national-disability-employment-policy-from-the-new-deal-to-the-real-deal-joining-the-industries-of-the-future/.

NCD Has Consistently Called on Policymakers to Eliminate Subminimum Wages

NCD began its study of Section 14(c) of the Fair Labor Standards Act (FLSA), which allows payment of subminimum wages to people with disabilities, and related topics approximately fifteen years ago.[2] Over the years, NCD has visited numerous community rehabilitation programs (CRPs) across the country, met with families of individuals who are employed at CRPs or have a history of employment at CRPs, and met with nonprofits who either voluntarily or involuntarily transitioned away from paying subminimum wages to new work models without abandoning their long-term clients.

Central to NCD's research and recommendations has been a focus on the progress of people with disabilities, which has fundamentally shifted both what is possible for people with disabilities and the expectations that society should have for them. Nearly 90 years ago when Section 14(c) became law, people with disabilities were largely kept out of society –there was no right to receive public education; large institutions housed thousands of people with intellectual and developmental disabilities for whom few other options existed; and no anti-discrimination civil rights laws for people with disabilities existed. Against this policy and societal backdrop, Section 14(c) was in fact a charitable government response to people who had little standing in society and few to no opportunities to be part of society or pursue educational or work goals.

Nearly 90 years later, however, people with disabilities and their families commonly have far more opportunities and higher expectations as they are mainstreamed in public education, living and participating in the community, benefiting from a more accessible physical landscape, and have equal opportunity and civil rights protections under the Rehabilitation Act and Americans with Disabilities Act (ADA). Accordingly, federal policies and investments should reflect the realities of these markedly different circumstances, and continuing to allow employers to compensate workers with disabilities with subminimum wages through a nearly 90-year old exception to labor law does not.

The current language of Section 511 of the Rehabilitation Act sought to at least discourage what in certain instances had become a pipeline of students with disabilities leaving high school and heading straight into subminimum wage work without first being

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[2] See National Council on Disability, *Subminimum Wage and Supported Employment* (2012), at: https://www.ncd.gov/report/national-council-on-disability-report-on-subminimum-wage-and-supported-employment/; *From the New Deal to the Real Deal: Joining the Industries of the Future* (2018), at: https://www.ncd.gov/report/national-disability-employment-policy-from-the-new-deal-to-the-real-deal-joining-the-industries-of-the-future/; *Tax Misclassification: Lost Employment Benefits for Disabled Workers* (2024), at: https://www.ncd.gov/report/tax-misclassification-lost-employment-benefits-for-disabled-workers/.

provided services that may allow them to pursue more individualized goals and higher wages. It does so by requiring efforts consistent with modern national disability policy goals to provide young people with disabilities with services and supports that seek to enable better employment outcomes in competitive, integrated work environments. The current language, which H.R. 8736 seeks to change, says that no entity with a 14(c) certificate can pay subminimum wages to anyone aged 24 or younger unless certain actions like counseling and vocational services are first attempted and failed. This current language maintains the commitment of mainstream public education to hold students with disabilities to high standards and assist them in achieving their greatest potential in post-secondary employment.

In contrast, H.R. 8736 would allow any entity with a 14(c) certificate to pay subminimum wages to individuals aged 18 or older if any single pre-condition is met. The bill alters Section 511 from an "no entity… may (pay subminimum wages) …. unless" to an "Any entity…may (pay subminimum wages) …if" construction. While it retains reference to vocational services and counseling as options to qualify for 14(c) usage, it also adds an "the individual chooses to accept employment with such entity" as an option to qualify, as well, meaning that since only *one* of the preconditions is necessary, no counseling or attempts at vocational rehabilitation are necessary should a young person with a disability simply "choose" to accept a job with an employer making less than minimum wage – including those young people who may not be fully aware of what is possible with the employment supports and services.

<u>The Transformation to Competitive Integrated Employment Act (H.R. 4771) (TCIEA) is consistent with NCD's past advisement to maximize full inclusion, competitive integrated employment, and the pursuit of economic self-sufficiency.</u>

In contrast to H.R. 8736, the Transformation to Competitive Integrated Employment Act (H.R. 4771) would create a comprehensive multi-year phase-out of Section 14(c). TCIEA substantially incorporates the guiding principles of a national transition strategy outlined in NCD's 2012[3] and 2018[4] reports to facilitate the successful transition of people with disabilities employed under Section 14(c) into competitive integrated employment.

NCD's 2012 and 2018 reports' comprehensive investigations examined successful and unsuccessful attempts to end the use of Section 14(c) programs throughout the country in order to develop guiding principles for policymakers that would create a national

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[3] National Council on Disability, *Subminimum Wage and Supported Employment* (2012), *available at*: https://ncd.gov/publications/2012/August232012.

[4] National Council on Disability, *From the New Deal to the Real Deal* (2018), *available at*: https://ncd.gov/publications/2018/new-deal-real-deal.

transition strategy and facilitate the successful transition of individuals with disabilities away from the segregated, subminimum wage forms or employment and into competitive integrated employment. Consistent with NCD's advisement, TCIEA would provide states and individual CRPs with resources from subject-matter experts to transform their business and program models away from the outdated subminimum wage model and into a new model that supports competitive integrated employment. It also encourages CRPs that have already demonstrated success in transitioning to the new work model to compete for technical assistance grants to assist other CRPs and states throughout their transformation efforts.

I encourage the esteemed Members of the Committee to continue to pursue policies consistent with the goals of the Americans with Disabilities Act, which this year celebrates 36 years since enactment under President George H.W. Bush – *equal employment opportunity*, economic self-sufficiency, full participation, and independent living. These goals remain helpful guideposts against which federal policies, proposed and enacted, can be fairly evaluated, and are ones NCD returns to again and again in formulating our advisement to Congress and other policymakers. Accordingly, for your consideration during your markup, we again emphasize our **concern with the Restoration of Employment Choice for Adults with Disabilities Act (H.R. 8736)**; and the alignment of the Transformation to Competitive and Integrated Employment Act (H.R. 4771) with our previous recommendations to Congress.

Thank you for the opportunity to provide this summary of some of NCD's research, analysis, and recommendations for how to improve employment for individuals with disabilities. We welcome the opportunity to brief the Committee and its staff in depth on any of these or related topics at any time. To that end, please do not hesitate to contact NCD's Director of Legislative Affairs and Outreach, Anne Sommers McIntosh, amcintosh@ncd.gov, who will be glad to address a request for follow-up.

Respectfully,

Neil Romano
Acting Chairman

Cc: Members of the Education and Workforce Committee