

Viewing Self-Employment as a Valid Career Path for People with Disabilities

A Testimony to the U.S. House of Representatives Committee on Small Business's Subcommittee on Innovation, Entrepreneurship, and Workforce Development by Cody Clark

I am honored to be invited by Chairman Marc Molinaro and Ranking Member Morgan McGarvey to share my testimony. My name is Cody Clark and for the past decade, I've been self-employed on a full time basis with my business called "Cody Clark Magic". In spite of being diagnosed with autism at 15 months young and my parents being warned by doctors I'd never walk, talk, or hold down any sort of job, I do all three every day as I share magic shows and talks which educate K-12 and college students about what autism entails, assist corporations in effectively integrating employees with disabilities, and help young adults with disabilities gain the life skills needed to become successful adults.

I am grateful to be successfully self-employed for an entire decade and counting. Along with my passion for the art of magic, personal knowledge of the needs befalling people with disabilities at present, and the business knowledge gained from my University of Louisville Bachelor's degree in Marketing + Theatre Arts minor, I also credit this to the government policies which have reduced or removed many barriers to entry for me. To start, this includes two facets of the Affordable Care Act: in my business's earliest years, I was able to remain on my parents health insurance policy until the age of 26. Once I reached this age, I applied to Kentucky's Open Enrollment Marketplace and was pleasantly surprised to learn that, to this day, I can receive Medicaid at no cost due to the state by state opt-in option to expand Medicaid benefits to include, among other categories of people, any individual with a disability diagnosis - regardless of what additional disability benefit services they do or don't utilize. For many reasons, there are additional challenges to getting health insurance as a self-employed business owner with policies typically being more expensive than those for wage earning employees. Knowing that, thanks to these two facets of the Affordable Care Act, my health insurance was completely taken care of, without much effort needed on my end to be certified for these benefits, is a big reason I felt I could start my self-employment immediately after my college graduation and it is a benefit I continue using today.

Secondly, while there is overall a scarce amount of direct government and outside non-profit support available for self-employed business owners, the past few years

provided myself and many small business owners two sets of new opportunities which showed why directly supporting self-employed and other small business owners is effective. Like many of my peers in the live events industry, the sudden shutdown of live presentations due to the need to ensure as much public health safety as possible during the beginning of the COVID-19 pandemic made us worry about the survival of our businesses. In response, Kentucky Governor Andy Beshear proposed and was able to take executive action to make Kentucky (to my knowledge) the first state to extend Pandemic Unemployment benefits to self-employed businesses. I immediately applied and was approved for this and, once the idea caught on and was adopted nationally within the Pandemic Unemployment Act, the state approval carried over into the national benefits. This is a big deal because normally, self-employed individuals are ineligible to receive unemployment benefits in many states. Both sets of unemployment funding were also supplemented by a grant I was awarded from the Small Business Administration's EIDL Emergency Grant program.

Because my state and national governments and the SBA extended direct financial benefits to self-employed individuals, I was able to weather the first, very uncertain months of the COVID-19 pandemic without having to worry about forging a new path during a vulnerable time in our country's history. Additionally, I was able to utilize this direct funding to create a path forward in which I remained self-employed. I was able to purchase the technology needed to convert my magic/speaking presentations to the virtual presentation format (allowing my business to resume operations even before the full return of in-person events), join a business coaching program that's given me the knowledge and support to scale my business to new heights it hadn't seen before being awarded these funds, and I've been able to hire web editors, videographers, photographers, and graphic designers to create content which brought my promotional materials (website, promo video, headshots, etc.) up to date to reflect my business as accurately to potential customers as possible.

And lastly, I was able to gain a large section of my client base and learn more about the services being provided as a whole for people with disabilities seeking employment due to a new sector of vocational rehabilitation services which was created via the Rehabilitation Act of 1973's 2014 amendment called the Workforce Innovations Opportunity Act (WIOA). This is known professionally as Pre-Employment Transition Services (Pre-ETS) ¹. A large portion of my client base consists of Pre-ETS programs which didn't exist prior to this amendment that focus solely on taking high school aged students with disabilities, learning what their life goals are, and developing a plan to

¹ National Technical Assistance Center on Transition. "Pre-Employment Transition Services - NTA:CTC." *National Technical Assistance Center on Transition*, <https://transitionta.org/topics/pre-ets/>. Accessed 13 January 2024.

help them transition into adulthood. I wish I could take this committee with me to one of my engagements for Pre-ETS programs! Everyone would be impressed by the variety of life goals these young adults have and how capable they are of succeeding.

I think this is because, with the exception of one key area, Pre-ETS has been effective! The instructional training is top notch, with the assistance being based in a “decision tree” system which allows young adults with disabilities to make their own decisions about the career path they want to take while allowing program instructors to have specific methods for assisting them with most potential career paths. Pre-ETS programs are encouraged and guided on how to connect with their local communities and potential employees for job shadowing and job placement programs that give program participants an idea of what particular jobs are like, the workload and social skills expectations of most workplaces, and often result in direct connections of individuals with disabilities to the jobs in their community they most desire and that most naturally fit their skill sets. I also like that the program is holistic, also including funding for recreational outings like sports games, movies, and yes, my magic shows. But having utilized earlier versions of these services through Kentucky’s Vocational Rehabilitation program and seeing during my engagements for Pre-ETS programs that this phenomenon continues, the exception I mention is that Pre-ETS and other services for people with disabilities are systematically designed to steer their service recipients away from considering self-employment.

The Department of Labor admits this specifically in their 2014 ODEP START-UP initiative report entitled *Self-Employment for People with Disabilities*², stating that “Agencies are generally oriented to supporting individuals in seeking wage employment and thus are better prepared to support that path.” While the progress Pre-ETS programs have made in increasing wage employment for people with disabilities should be commended and needs to continue, the focus on wage employment unnecessarily prevents a sizable portion of able and willing to work people with disabilities from receiving the full extent of services needed to become successfully employed.

Many people with disabilities prefer self-employment for many legitimate reasons, including:

1. Self-employment is the most personal form of business operation. Many newly self-employed people start their businesses not to make large profits and then sell their business, but because they’re passionate about their interests and

² Office of Disability Employment Policy. “Self-Employment for People with Disabilities.” *U.S. Department of Labor*, U.S. Department of Labor, 15 December 2013, <https://www.dol.gov/sites/dolgov/files/odep/pdf/2014startup.pdf>. Accessed 13 January 2024.

causes and feel that they can use them to address unmet needs within their communities. This suits many people with disabilities well because it is common for us to use our deep devotion to our hobbies, interests, and creative pursuits as a way to interpret a world that isn't inherently built to be accessible for us.

2. It also allows us to address unmet accommodation needs such as assisted communication devices, sensory fidget devices, and as in the talks I share at the Pre-ETS programs, life skills training specific to the needs of young adults with disabilities. Not many outside entities would think to open ventures addressing these needs as readily as the people like me who need them the most would. Therefore, by validating self-employment as an option for work-ready people with disabilities, our country can become a more accessible place for people with disabilities.
3. As thankful as I am for the progress made by wage based employers in developing disability friendly workplaces, there are still significant barriers to many people with disabilities successfully remaining employed in a traditional wage based workplace setting. Many workplaces remain inaccessible due to building issues, unaddressed sensory triggers, and the social skills expectations found in most multiple employee work environments. Plus most wage based jobs require the ability to regularly leave your residence period. When someone gets to be their own boss, they gain the freedom to create a work environment tailored to their precise needs, featuring the accommodations they need for their particular disabilities, and targeting the exact kinds of customers most likely to be understanding of their authentic selves.
4. While wage based employment is systemically pushed on people with disabilities by their assistance programs, at the same time, subminimum wage for employees with disabilities is broadly legal in this country. According to the DOL's overview on subminimum wage provisions, "The Fair Labor Standards Act (FLSA) provides for the employment of certain individuals at wage rates below the statutory minimum...Also included are individuals whose earning or productive capacities are impaired by a physical or mental disability, including those related to age or injury, for the work to be performed."³ When the main employment option that is pushed on people with disabilities actively prevents them from making the income needed for living expenses, it's only natural that self-employment is viewed as the better path for survival.
5. Programs like Social Security's disability benefits also provide barriers for people with disabilities to make the income needed to survive. Eligibility for Social Security disability benefits is tied to asset and monthly income limits which are absurdly low, to the point that, even in year one of my business, I've never been

³ "Subminimum Wage." *U.S. Department of Labor*, U.S. Department of Labor, <https://www.dol.gov/agencies/whd/special-employment>. Accessed 15 January 2024.

eligible. And across my entire lifetime, my family has only ever received Social Security benefits on my behalf once, within the initial month after I was diagnosed around 1995. There's very few jobs available which allow people with disabilities to remain within these limits as they are currently, so if the nature of their disability and societal biases about disability prevents them being hired in workplaces paying above subminimum wages, self-employment presents a chance to make a gainful income that allows them to provide for their living needs without forcing them into undergoing undue disability related physical and emotional pain in order to earn a paycheck.

The main reason for my testimony today is because I feel that programs like the SBA, Pre-ETS, and all local, state, and national government programs which provide employment services for people with disabilities should, within the scope of their efforts, include self-employment as an employment option which is as equally valid as wage based employment. I provide the following suggestions as a good place to start:

1. Find places to plug self-employment/small business resources into the current Pre-ETS service structures. Another reason I feel Pre-ETS programs have had effective outcomes is that they operate under structured systems built during the onset of the program. These structures operate similarly to what the broader business world calls a "decision tree", mapping out which Pre-ETS service recipients go in which directions and using all the mapped out scenarios to determine which resources and outside partnerships these programs set up. The aforementioned ODEP START-UP Initiative report includes both examples of the current decision trees which leave out self-employment and a suggested decision tree which shows how easily self-employment resources can be included within Pre-ETS and other disability job placement programs. Within these suggested branches for the Pre-ETS decision tree are perfect opportunities to bring in SBA counselors, business strategy coaches, local self-employed business owners, bank loan officers, etc. By incorporating the option of self-employment within the scope of Pre-ETS and other disability services, we can increase awareness of the resources already available to assist individuals with disabilities desiring self-employment with creating a realistic, yet doable plan of action.
2. Expand upon Pre-ETS's core philosophy of incorporating an individual's personal choice of career into all programs designed to assist people with disabilities. As appreciated as outside expert perspectives are on issues relating to disabilities, it should be common sense that the number one expert on a person with disabilities' needs is that very person themselves. Pre-ETS may be one of the first disability programs nationally to operate under this philosophy and it is effective because it assumes the competence, rather than the ignorance, of the

person being helped, allowing them to provide their supporters with valuable information that makes job placement, both wage earning and entrepreneurial, a much easier process. It also has positive mental health impacts on people with disabilities because they're given personal agency to make important life choices rather than those choices being made for them simply because "this is what's available".

3. Extend the range of services for self-employed people as a whole to include more direct funding opportunities. With or without a disability, self-employed people have access to less resources for starting their business than even companies with a small number of employees. Most grants or loans are aimed at ventures which will result in jobs created and many straight up forbid self-employed applicants from applying. I feel this is an oversight because most self-employed individuals, when awarded the few funding opportunities they can get, tend to use these funds for specific purposes which result in their businesses staying afloat and impacting not just their local communities, but the many fellow businesses they purchase their business equipment, strategy training, and raw product/service materials from..

I couldn't imagine taking any other career path than the one that brought me here today. By committing to being self-employed in spite of the systems built against encouraging people with disabilities to consider self-employment, I've been able to not just survive, but thrive and meaningfully contribute to our country's arts and disability advocacy sectors. I want my peers to have the same freedom of choice because, even though "being your own boss" is indeed hard, there are resources already in place which can help people with disabilities succeed should they choose to be self-employed - we've just got to give disability service providers the ability and resources to present self-employment as a valid option to their service recipients and utilize direct government services based support to aid individuals desiring self-employment in these efforts. I'm thankful to live in a country whose policies have directly enabled me to live my dream of being a professional magician and autism advocate and where I can advocate in this House subcommittee meeting to show our representatives that these policies worked for me, should continue, and should be expanded upon so our citizens can benefit from many more disability owned businesses. By doing so, we can increase the employment rate for people with disabilities as a whole.

Thank you again for the honor of testifying. It means a lot to me to serve our country in this manner.