



ASSOCIATION OF PEOPLE SUPPORTING EMPLOYMENT FIRST (APSE) CALL TO PHASE OUT 14(c) AND SUB-MINIMUM WAGE BY 2022*

As the only national, non-profit membership organization dedicated to Employment First – a vision that all people with disabilities have a right to competitive employment in an inclusive workforce – **APSE is calling for the complete phase out of the use of 14(c) certificates and sub-minimum wage for all individuals with disabilities by 2022.** This coincides with the implementation deadline for the Medicaid Home and Community Based Services (HCBS) settings final rule. While the sub-minimum wage may have historically been a valid and effective strategy for enhancing employment opportunities for people with disabilities, the evolution in disability rights law, modernization of the business marketplace, and advances in available community employment support, makes the 14(c) provision under the Fair Labor and Standards Act no longer necessary or acceptable.

In 2009, APSE became one of the first advocacy organizations to call for the phase out of sub-minimum wage for people with disabilities, under Section 14(c) of the Fair Labor Standards Act. Since then the issue has gained significant momentum, APSE has garnered support from other advocacy organizations, federal officials, agencies, members of Congress, and several states that have either ended sub-minimum wage altogether or they are currently considering doing so. APSE is proud to serve as a pioneer on this issue along with so many other voices in this fight.

Additionally, in the 10 years since APSE's [original statement](#), considerable progress has been made towards increasing competitive, integrated employment of people with disabilities and decreasing the number of individuals being paid sub-minimum wage. However, there is still much to be done. In calling for the phase out of sub-minimum wage and the use of 14(c) certificates, APSE recognizes the importance of undertaking such action in a way that is carefully thought out and leads to successful movement of individuals currently being paid sub-minimum wage into competitive, integrated employment opportunities in the community at prevailing wages (minimum wage or above). To this end, it is vital to plan for this transition in an effort to avoid unintended consequences that would not only damage efforts to expand community employment, but potentially result in an actual loss of rights and opportunities for individuals with disabilities to full integration and inclusion in society.

APSE's Call to Action

- ✓ End issuance of new 14(c) certificates to businesses immediately.
- ✓ Phase out of sub-minimum wage over time with technical assistance provided to transform business models and funding supports toward the outcome of competitive, integrated employment.
- ✓ Develop and implement a federal cross-agency task force dedicated to the phase out of 14(c) and sub-minimum wage in conjunction with implementation of a cross-disability national Employment First Policy.

****Adopted by the National APSE Board of Directors on March 26, 2019.***

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APSE's Recommendations for Successfully Phasing Out 14(c) and Sub-Minimum Wage

APSE proposes the following recommendations to bring disability employment services into alignment with modern policy that clearly prioritizes competitive, integrated employment as the preferred outcome for people with disabilities.

- Issuance of new sub-minimum wage 14(c) certificates to employers by the U.S. Department of Labor should end immediately.
- The phase out of sub-minimum wage should occur over time, accompanied by a comprehensive, national systems change movement based on the principle that employment in the community is the first, or preferred service option for service recipients – i.e., Employment First.
 - Technical assistance and support should be provided to systems that currently rely on service provider delivery of services using 14(c) certificates, and to the holders of 14(c) certificates themselves, in order to realign delivery and business models that can effectively move the individuals currently receiving sub-minimum into employment opportunities in the community at minimum wage or higher.
- A national effort must be undertaken to improve the overall quality of community employment outcomes both in terms of individual outcomes (wages, hours, diversity of employment), and system outcomes (efficiency and effectiveness). Such efforts should be undertaken in conjunction with current systems change efforts and in collaboration with OSERS, CMS, RSA and DOL, and should address the following priorities:
 - A federal cross-agency task force should be created to develop and implement the phase out of sub-minimum wage in conjunction with implementation of a cross-disability national Employment First policy. Agencies represented on this task force should include, but not be limited to, Rehabilitation Services Administration (RSA), Centers for Medicare and Medicaid Services (CMS), Substance Abuse and Mental Health Services Administration, Office of Special Education Programs (OSERS), Social Security Administration, and Department of Labor (DOL) Office of Disability Employment Policy and Wage and Hour Division.
- The movement of individuals into non-work day habilitation services, instead of into community employment, is not an acceptable outcome of the phase out of 14(c) and sub-minimum wage. Similarly, it is not acceptable to reclassify individuals currently receiving sub-minimum wage as “trainees” or similar designation, to comply with the requirement to discontinue use of sub-minimum wage.
 - It is similarly unacceptable to eliminate an individual’s day services and wrap-around supports as a result of the phase out of 14(c) and sub-minimum wage.