

United States Senate

December 3, 2019

U.S. Commission on Civil Rights
1331 Pennsylvania Ave., NW, Suite 1150
Washington, DC 20425

To Chair Lhamon and Commissioners:

Thank you for taking the time to examine the impacts of the Fair Labor Standards Act section 14(c) waiver program. As you know, this waiver program allows employers to pay subminimum wages to employees who experience disabilities. As you consider this issue, I believe that you will conclude – as I did as Governor of New Hampshire – that we should not pay people with disabilities less than the minimum wage, and that continuing this waiver will have a number of negative impacts.

In 2015, as New Hampshire's Governor, I signed into law legislation eliminating the payment of subminimum wages to individuals who experience disabilities. This legislation was supported by disability rights advocates, but also championed by business leaders who were perplexed as to why they were legally permitted to pay some employees less for equal work. Each year, New Hampshire recognizes employers who have equitable hiring practices, and who make hiring workers who experience disabilities a priority. These employers often questioned why they should be recognized for doing something that is in their best interest, saying that their employees who experience disabilities are often their most reliable and hardest-working employees. Currently, employers across our state are experiencing a workforce shortage caused in part by our relatively low unemployment rate of 2.5 percent. Increasing the number of individuals who experience disabilities in the workforce will help address these workforce shortages, making the transition to competitive integrated employment not only the right thing to do, but a good economic decision as well.

As you know, 14(c) waivers have been traditionally given to places of employment referred to as sheltered workshops – segregated work environments for individuals who experience disabilities. While sheltered workshops were originally established to serve as an entry point to the workforce with the goal of transitioning workers to more traditional employment opportunities, there is little evidence that have successfully achieved that objective. In 2005, the Government Accountability Office reported that only five percent of shelter workshop employees transitioned into an integrated setting. In fact, there is also evidence that, individuals leaving sheltered workshops for integrated employment often require more supports than their peers who went directly into traditional employment settings.¹ Sheltered workshops do not provide appropriate employment opportunities to individuals who experience disabilities, and should be phased out.

¹ *Subminimum Wage and Supported Employment*, National Council on Disability
(https://www.ncd.gov/sites/default/files/NCD_Sub%20Wage_508.pdf)

As a country, we must make the necessary investments in services so individuals who have worked at these workshops have the opportunity and support necessary to achieve competitive integrated employment. That is why in the U.S. Senate, I am a cosponsor of the Transformation to Competitive Employment Act that would phase out the practice of paying subminimum wages nationally and provide funding so that individuals who have been employed at sheltered workshops receive the necessary supports to transition to competitive integrated employment.

I am pleased that as the first state in the country to eliminate the payment of subminimum wages in law, New Hampshire set the example and that other states have since followed, but it is imperative that the federal government eliminate this antiquated and unjust practice of paying individuals who experience disabilities less than their peers. I will continue to advocate for policies that support integrated employment with equal pay for individuals who experience disabilities.

I am encouraged that the Commission is taking this matter under consideration, and I hope you look to states who have led in eliminating this practice to demonstrate why the only appropriate next step is for the federal government to follow suit and eliminate the payment of subminimum wages.

With every good wish,

A handwritten signature in blue ink that reads "Maggie Hassan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Margaret Wood Hassan
United States Senator