



Policy Proposal: End Substandard Wages for People with Disabilities

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Policy Challenge: Disabled Americans Earn Less than the National Minimum Wage

The Americans with Disabilities Act went a long way in dispelling myths that people with disabilities inherently cannot work and are unproductive when they do. Yet, policies aimed at bringing the disabled into the workforce come into conflict with these rights and antidiscrimination objectives.

Before the 1938 Fair Labor Standards Act established a national minimum wage while still allowing substandard wages, vocational rehabilitation policies like the 1920 Smith-Fess Act and the 1936 Randolph-Sheppard Act promoted sheltered workshops paying low wages as a means to encourage employers to put disabled people to work.

By the early 1970s, disability groups were testifying before Congress that “too many of the severely handicapped who have a potential for normal, ordinary employment are in workshops at substandard wages without ordinary fringe benefits.” For the most part, their voices went unheard. Disability rights groups continue to point to the injustices of Department of Labor waivers allowing, for example, Goodwill to pay as little as 22 cents per hour to its disabled workers. Some may even be paid as little as 4 cents per hour.

Policy Solution: Abolish the Department of Labor Waiver System Permitting the Payment of Substandard Wages to Disabled Workers

Currently, the Department of Labor offer a waiver system permitting the payment of substandard wages to disabled workers. According to the Department, the waiver system allows substandard wages to “prevent the loss of employment opportunities” including for those individuals “whose earning or productive capacity is impaired by a physical or mental disability.” It affects about 150,000 to 200,000 workers. It should be abolished as it sends the wrong message to Americans and perpetuates serious inequalities. Although unemployment rates are at a record low, unemployment among people with disabilities remains high, erroneously lending credence to the premise under which this waiver rests: that disabled people will never be hired at regular wages.

But, there is growing momentum pushing for real change. The Employment First movement, which seeks to undermine sheltered workshops, has made inroads at the state level. A handful of red and blue states (e.g., Alaska, Maryland, New Hampshire, et al.) have already made it illegal to pay disabled workers less than the minimum wage. It is time for action to be taken at the federal level.

Earlier this year, Senators Warren, Murray, and Sanders, among others, called for reform of the discriminatory waiver system. There’s some promise in proposals like Sen. Bob Casey’s 2018 Disability Employment Incentive Act (S. 3260) also co-sponsored by 6 other Democrats. It’s meant to encourage employers who already hire people with disabilities to retain them and, encouraging those who historically have not, to hire. It also proposes funds to state-run programs coordinating job placements for high school graduates with disabilities. But, these same legislators must also call out the injustices of Department of Labor waivers and explicitly, through policy, make them a thing of the past.

Ensuring successful reform requires a bipartisan coalition in Congress, outreach efforts to the business community, and a strong commitment from the Department of Labor and the White House, without which will make policy enforcement impossible. It requires the participation of disability groups – they must have a place

at the policymaking table for proposals to have any legitimacy. It's important to bear in mind that these efforts are as much about changing attitudes as they are changing labor practices.