



Key points:

- **Advisory committee charged with finding ways to boost competitive employment**
- **Dispute turns on how far, fast to go in creating new systems**
- **Goodwill fears diversion to day hab programs, disability group calls such concerns unwarranted**

Goodwill accuses advisory panel of exceeding mandate on subminimum wages

When Congress passed the [Workforce Innovation and Opportunity Act](#) in 2014, it tried to strike a balance between moving away from the sheltered work system for people with disabilities and keeping at least part of that system in place.

Like any employer, sheltered work operators can pay people less than the minimum wage if their "earning or productive capacity is impaired by age, physical or mental deficiency, or injury," according to Section 14(c) of the [Fair Labor Standards Act](#).

In the end, Congress prevented employers merely from hiring people under age 25 at less than the minimum wage unless certain criteria were met.

For some disability groups, that wasn't enough. The [Collaboration to Promote Self-Determination](#), for example, wanted to end the 14(c) system outright.

Now, [Goodwill Industries International](#) is accusing a committee created as part of the law of entertaining ideas to do just that.

"A number of the proposed recommendations go beyond the committee's scope," it said in a [letter](#) dated Aug. 3. "For example, the phase out of the use of the special minimum wage certificate is not a 'way to improve oversight,' nor will it result in increased employment opportunities."

Disability groups disagree, saying the [Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities](#) can consider any and all proposals to boost such employment. Therefore, it will be interesting to see what the committee proposes when it submits an interim report on its work Sept. 15.

Avoiding harm

The debate over sheltered work matters to special educators for two reasons. First, [transition services](#) are meant to help youth with [IEPs](#) find competitive, integrated employment after high school if they do not go on to college.

For example, OSEP [Indicator 14](#) requires schools to report the number of former students who have obtained competitive employment, defined as working "for pay at or above the minimum wage in a setting with others who are nondisabled for a period of 20 hours a week for at least 90 days at any time in the year since leaving high school," including military employment.

Second, the new law says districts "may not enter into a contract or other arrangement with an entity [that holds a 14(c) certificate] for the purpose of operating a program for an individual who is age 24 or younger under which work is compensated at a subminimum wage."

In short, the onus is on schools to prepare youth with IEPs for a regular job if at all possible, and groups such as Goodwill would not disagree.

The question is how far to go, and how fast, according to [ACCSES](#), a consortium of employment service providers.

"While one day the need for these various programs may not exist[,] unfortunately, for the millions of individuals with a disability who wish to work and have the dignity of earning a paycheck[,] that day has not yet arrived," it said in a [letter](#) dated Aug. 10. "The pursuit of progress should not be done indiscriminately and at the expense of particularly those with the most significant disabilities."

Attempts to interview someone at Goodwill were unsuccessful at press time, as were attempts to reach a representative at ACCSES.

Going larger

Goodwill's concerns about the committee go beyond matters of scope; it also is concerned with what happens to people if the sheltered workshops in which they have been employed shut down.

For example, it asks, what's to prevent such individuals from ending up in day habilitation programs rather than in competitive jobs?

That's a legitimate concern, according to Barb Trader, executive director of [TASH](#). But it's not, she said, a reason to slow down.

"Of course it's a concern, but it's not an inevitability," she said. "It's the same fear kind of rhetoric that we heard when we were closing institutions."

In short, the committee is doing what it is supposed to be doing, according to Curt Decker, executive director of the [National Disability Rights Network](#).

"An advisory committee doesn't have the same restrictions that [the Rehabilitation Services Administration] might have in drafting regulations," he said in reference to [proposed rules](#) that were issued in April. "Frankly, why have a WIOA advisory committee if it's just going to parrot what RSA is going to do?"

"The intent [of the committee] was we should go larger and look at the broader factors that keep this system going."

See also:

- [OSERS to issue proposed rule on workforce law, transition services](#) (April 7)
- [Nominees sought for advisory committee on sheltered workshops, new law](#) (Sept. 24)
- [Comments to ED on new workforce law address transition challenges](#) (Aug. 20, 2014)

For more stories and guidance on this topic, see the [Postsecondary Transition Roundup](#).

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