



# Subminimum Wage at a Glance

The National Down Syndrome Society (NDSS) fully supports and actively advocates for wage equity for people with disabilities. Committed to ensuring all individuals with Down syndrome are assured their human rights and valued by a more inclusive society, NDSS has long been at the forefront of the movement to phase out subminimum wage practices at the federal, state, and local levels by collaborating with policymakers, other disability organizations, and grassroots advocates.

## BACKGROUND

The Fair Labor Standards Act (FLSA) of 1938 established a minimum wage among other employment standards affecting employees in the private sector and federal, state, and local governments. However, Section 14 (c), a provision of FLSA, enables organizations to apply for a certificate that allows them to **pay workers with disabilities a wage lower than the federal minimum wage** (\$7.25 per hour). This provision is often referred to as the “Subminimum Wage Law” or “Commensurate Wage Law.” The U.S. Department of Labor (DOL) reviews Section 14(c) applications and is responsible for approving or denying these certificates. For more information about Section 14(c), reference [Pennies on the Dollar: The Use of Subminimum Wage for Disabled Workers across the United States](#).

## IMPACT ON WORKERS WITH DISABILITIES

Census data, based on the 2022 American Community Survey (ACS), estimated that there were 44,146,764 people with disabilities in the United States, making up 13.4 percent of the total estimated U.S. population.<sup>i</sup> Despite recent progress, a 2023 U.S. Bureau of Labor Statistics report revealed that the unemployment rate for persons with a disability (7.2 percent) was twice as high as the rate for persons without a disability (3.5 percent).<sup>ii</sup> Low unemployment rates among individuals with disabilities have been shown to adversely affect their personal well-being and health.<sup>iii</sup>

As of March 2024, approximately 823 employers currently have, or have applied for, a 14(c) certificate.<sup>iv</sup> Estimates currently suggest that more than 40,000 workers with disabilities are being paid these low wages.<sup>v</sup> A 2023 report from the United States Government Accountability Office (GAO) revealed that the average wage for workers under the 14(c) program was \$4.15 per hour; more than 50 percent of workers earned less than \$3.50 per hour, with some receiving as little as \$0.25 per hour.<sup>vi</sup>

## A National Perspective

At the national level, there are multiple approaches to phasing out and eliminating the utilization of subminimum wage certificates across the country.

## FEDERAL POLICY

There have been several iterations of federal policy to prohibit new 14(c) certificates from being issued and to phase out subminimum wage practices. As of the 118th Congress, the most recent federal policy response is the Transformation to Competitive Integrated Employment Act (TCIEA) (H.R. 1263/S. 533). Unique to the bill is the considerable funding proposed to invest in competitive integrated employment for individuals with disabilities.

## REGULATORY ACTION

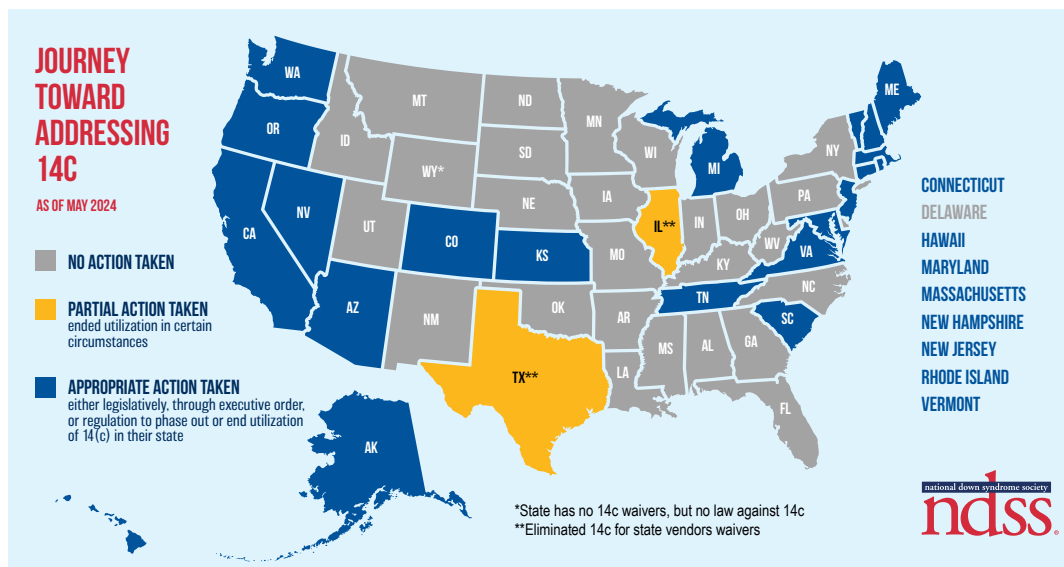
The United States Department of Labor (DOL) has taken steps to better understand the landscape and impact of subminimum wage on employees with disabilities, employers, and the broader community. On September 26, 2023, the DOL announced it would conduct a comprehensive review of the Section 14(c) program including a series of stakeholder engagement sessions that took place in late 2023.<sup>vii</sup> The Department has not yet announced the next steps or outcomes of their review. It is important to note that the Department has the regulatory authority and discretion to discontinue the issuance of any new or future 14(c) certificates, thus ending the practice of subminimum wage.

## FEDERAL AND STATE PARTNERSHIP

In the 2021 appropriations omnibus, a provision was included to create the Disability Innovation Fund (DIF) at the Rehabilitative Services Administration (RSA) at the Department of Education. The DIF uses funds returned from state Vocational Rehabilitation agencies to fund competitive grants focused on various disability-related services. In 2022, the Department of Education awarded \$167 million to 14 states to assist employees with disabilities in their states in transitioning from subminimum wage to competitive integrated employment under the Subminimum Wage to Competitive Integrated Employment (SWTCIE) grant program.<sup>viii</sup> The Rehabilitation Services Administration continued to offer DIF grants in 2023 and 2024.

## STATE POLICY

Passing laws related to wage equity for people with disabilities has been more successful at the state and local levels. States and local advocacy groups have started efforts to phase out subminimum wage practices in favor of more competitive integrated employment opportunities. Some states have adopted Employment First policies, which means that the first option for individuals with disabilities should be competitive integrated employment within their community. Other states have implemented plans to phase out subminimum wages over several years. Each state's approach is based on its capacity, collaboration, and funding to ensure employers and workers with disabilities are supported throughout these transitions. Phase-outs are a coordinated effort between community rehabilitation providers, the stakeholder community, and government.



## CONCLUSION

NDSS promotes access to competitive integrated employment for all people with Down syndrome who seek it, while offering resources and information regarding other options, such as vocational training and self-employment. NDSS will continue to advocate on this critical civil rights issue until people with Down syndrome and other disabilities have obtained wage equity.

For more information, visit:

<https://ndss.org/ending-subminimum-wage-toolkit>

## SOURCES

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