

# Fair Labor Standards Act (FLSA)

*Protect Employment Opportunities for People with Disabilities*

## What is the FLSA Section 14(c)?

Under Section 14(c) of the FLSA, any employer with a Special Minimum Wage Certificate from the U.S. Department of Labor's (DOL's) Wage and Hour Division (WHD) can pay special minimum wages — less than the federal minimum wage — to employees with disabilities if those disabilities directly impact their ability to perform on the job. Based on November 2013 figures from the DOL, 3,300 employers hold Special Minimum Wage Certificates. According to a 2001 Government Accountability Office report, approximately 424,000 workers with disabilities were paid special minimum wages. Recent media reports that the number has been reduced to 216,000. While most of these individuals are employed in center-based work environments, some are also employed with private businesses.

## Issues of Concern

In January 2013, the U.S. Bureau of Labor Statistics (BLS) reported that the portion of people with disabilities in the labor force was only 18.2 percent, compared to 68.3 percent for persons without disabilities. Furthermore, the unemployment rate for those with disabilities was 13.3 percent, compared with 6.8 percent for persons without disabilities, not seasonally adjusted. One in five adults living in the United States has a disability, and more than 22 million families nationwide contain one or more members with disabilities. There are clearly not enough employment opportunities for people with significant disabilities and no incentives for employers to hire these workers.

## FLSA Section 14(c) and Goodwill®

Many community-based Goodwill agencies hold Special Minimum Wage Certificates to employ workers with severe disabilities in their retail stores and on their contracts. Without FLSA Section 14(c), many more people with severe disabilities would experience difficulty in participating in the workforce. These jobs provide individuals with paychecks that they would be unlikely to receive otherwise, as well as ongoing services and support, job security during these troubling economic times, and the opportunity for career advancement.

## The Solution

Goodwill Industries® has been supportive of the bi-partisan agreement put forth by members of the Senate Health, Education, Labor, and Pensions Committee which focuses on transition age youth with disabilities. We also support initiatives that would increase employment first initiatives and supported employment programs. Goodwill opposes any initiative to phase out the use of the Special Minimum Wage Certificate, which would remove an individual's right to choose to work in a center-based program. Instead, Goodwill makes recommendations to strengthen the continued use of Special Minimum Wage Certificates by reforming the following areas:

- **Penalties and Enforcement:** Resources should be devoted to allow for more investigators and training in order to avoid misuse of the certificate.
- **Data and Recordkeeping:** Most of the data used pertaining to the certificate is from a 2001 GAO and is over a decade old. Congress should require more transparency and urge GAO to update their report.
- **Self-Determination and Informed Choice:** People with disabilities should be able to work in the environment that they chose after being made aware of all of the employment options and resources available.
- **Career Pathways/Youth Pathways:** Individuals and especially transition-age youth with disabilities should have an individualized plan for employment and receive career counseling.
- **Additional Provisions:** Only accredited nonprofit employers defined as community rehabilitation providers (CRPs) should be able to employ individuals under the certificate. This will help ensure that the employees are receiving additional supports traditionally provided by CRPs.

## Action Requested

Goodwill urges Congress to oppose proposals to eliminate or phase out the use of Special Minimum Wage Certificates such as HR 831, and instead support legislation that would strengthen the FLSA and increase enforcement of the act, while recognizing the principles of self-determination and rights of individuals to obtain and maintain employment.

## About Goodwill

Goodwill generates opportunities for people to achieve economic stability and build strong families and vibrant communities by offering job training, employment placement services and other community-based programs for people who face employment challenges. In 2012, Goodwill provided services to 6.7 million people and 219,000 people obtained meaningful employment as a result of Goodwill career services programs.

**For more information and additional recommendations supported by Goodwill, contact:**

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**"After working in the loving environment of Goodwill, I find my son a happy, healthy 30-year-old man who wants nothing more than to make people happy around him. The supporting staff and co-workers are Johnny's life now. Employment gives him confidence, goals, a desire to go to work every day, opportunities to learn new tasks and the chance to build social skills by interacting with the public." — Butch Beckhardt on the services his son with severe disabilities receives at Goodwill.**