



The National Association for the Employment of People who are blind

Board of Directors Special Meeting

February 19, 2019

1-877-860-3058, 925356#

3:00 – 4:00 pm ET

1. Welcome Mabry
2. Roll Call Petach
3. New Business
 - a. Policy on 14c
 - i. Review current policy
 - ii. Consider revision calling for elimination of 14c
 - b. Consider endorsing HR 873/SB 260 Transformation to Competitive Employment Act
4. Other Business
5. Adjourn

Advance Materials:

- a. NAEPB Board of Directors Special Meeting Agenda 2.19.19
- b. Memo to the NAEPB Board of Directors February 8th (NIB minimum wage declaration attached)
- c. Press Release (1.31.19) on 14 c Bill
- d. Committee on Education & Labor -*Section-by-Section Transformation to Competitive Employment Act*
- e. Committee on Education & Labor- *Fact Sheet Transformation to Competitive Employment Act*
- f. 116th Congress H.R. 873 Bill
- g. U.S. AbilityOne Commission Minimum Wage Declaration

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3:00 p.m. ET

APPROVED APRIL 29, 2019

Mr. Mabry called the meeting to order. Ms. Najjar called the roll and confirmed all directors were present.

Mr. Mabry thanked the board for taking the time to attend this special meeting to discuss several issues. One issue is if it is time to call for the elimination of 14C and second to possibly endorse the *Transformation to Competitive Employment Act*.

Mr. Mabry had sent a letter to the Board as background for this meeting. Chairman Bobby Scott, D-VA, of the House Education and Labor Committee along with Rep. Cathy McMorris Rogers, R-WA, filed the HR 873 *Transformation to Competitive Employment Act* in the House. A similar bill has been filed in the Senate without Republican cosponsors, S 260, by Sen. Casey, D-PA. It is by no means a perfect bill and will surely be amended as it goes through the legislative process. Additionally, a bill introduced by Democrats earlier this year to increase the minimum wage to \$15 by 2024 includes a provision to phase out subminimum wages. Momentum is building.

With that backdrop, on Wednesday of this week, Todd and I met with five staffers to the House Armed Services Committee and the House Education and Workforce Committee. The purpose of the meeting was to discuss the 2% DoD goal. It is best to describe this as a skeptical audience, though eager to get information and learn more. This was a cooler reception than we had experienced a year ago when the 2% goal was supported and passed by the House as a provision of the NDAA. 14c and CIE dominated the conversation. These are topics that were raised (somewhat aggressively) by the Democratic staffer to the Education and Workforce committee. Todd did an excellent job on our behalf. But, these staffers have heard some unflattering views of our program. Interestingly enough, I also ran into Rep. Cathy McMorris Rogers at a restaurant. Todd introduced me to the Congresswoman who, upon hearing what I do for a living, immediately referenced her goal to eliminate 14c. 14c is not the only issue that affects the program's image and reputation, but it is the elephant in the room.

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Both NIB and the AbilityOne Commission have established aspirational positions in support of the payment of at least the federal minimum wage to all workers who are blind working on AbilityOne contracts (see attached), but neither have outright called for the elimination of 14c. I'm told SourceAmerica has a position on the practice, though from discussions I participated in while attending the G-6 this week, it appears they are wrestling with the issue. I don't, therefore, expect any of them to take a position on the bills. NAEPB adopted the following position on the matter in May 2014:

“As the recognized leader in the employment of people who are blind, the NAEPB endorses and promotes the payment of at least the Federal Minimum Wage for all employees who are blind.”

Many disability groups have come out in support of the elimination of 14c and endorsed the bills. Most of them have strong opinions about AbilityOne, at least in part because it permits the practice.

The question I am informally putting before this group is whether it is time to call on the elimination of 14c and possibly endorse the *Transformation to Competitive Employment Act*. I realize that this conflicts with my past stance and continued misgivings about the disruption it would cause to those with the most severe disabilities. But, I think it is time. If we did call for the elimination of 14c, NIB would likely be comfortable taking a similar position as we approach the Symposium, which would effectively blunt some of the most vocal critics of the program. It appears from the discussions at the retreat that there is a strong consensus within our membership to support the elimination of 14c as part of AbilityOne reform. Given that debates are occurring on the topic on the Hill, this seems like a logical next step.

With this background, Mr. Mabry told the Board he would like to have a conversation of NAEPB doing one or two things and emphasized that this is a request from the chair for a discussion. At this time there is no motion on the floor.

The three topics are: calling for elimination of 14C without endorsing a bill; calling for the elimination of 14C and endorsing the two bills in the House and Senate; and the third thing is to stick with what we have.

The board discussed the pros and cons of eliminating 14C. It was agreed that there are issues with the elimination of 14C, but if we do not support it now in working so hard to be considered competitive integrated employment, it will hurt us in the eyes of those we need to be our supporters.

Mr. Mabry asked if someone would be willing to make a motion to eliminate 14C as our revised policy. Mr. Moneymaker made a motion to formalize a policy to eliminate 14C, Ms. Vidrine seconded the motion.

Mr. Mabry said this is a separate issue from supporting the Transformation to Competitive Employment Act which will be discussed next. He asked if there were any questions regarding the motion.

Because this topic was discussed at the recent retreat which was attended by 36 member agencies, and all in attendance agreed that 14C should be eliminated, it was agreed that at this time there does not need to be a formal membership meeting to vote on adopting this policy.

Mr. Mabry explained to the board that this discussion is to decide a national public policy issue and not an issue of the membership or policing the member agencies on their current employment practices. He said he wanted to make sure the board agrees with and is comfortable with this decision.

Mr. Mabry then asked for a board vote. He asked that all of those in favor of a revised national public policy that would call for the elimination of 14C, signify by saying aye. Ten directors were in favor, one was opposed. The motion was passed without dissent.

Mr. Mabry then asked for discussion and feedback on the Transformation to Competitive Employment Act.

Members of the board commented that they were excited when they first saw the act by its title. After reading through it very carefully they were concerned because there is no mention of AbilityOne representation. It was pointed out that the bill references the language in the 1973 act and not the current language. Members feel that the language is damaging to the AbilityOne program as written.

Mr. Moneymaker asked if there is a compromise. Can NAEPB say in response we support the elimination of 14C and we support the act with the following language changes.

Mr. Mabry agreed this would be a solution. He mentioned that there are actually two bills in the house right now. One is to raise the minimum wage to \$15.00, which has not worked well in New York. He suggests that NAEPB can adopt the position of advocating for the elimination of 14C and not endorse the bill or endorse the bill with changes.

Mr. Hawting suggested that the two issues should be decoupled and NAEPB can come out strongly on the elimination of 14C and then work behind the scenes on the act.

Mr. Mabry agrees it is better to have a definitive policy on 14C and then talk to both sides of the Hill about the bill.

Mr. Mabry asked if the board would like to have a motion to either endorse the act or make clear that we are not going to endorse the act as written. There was no response.

Mr. Mabry asked for a straw vote if the board would support the act as it is currently written. No members felt the act should be endorsed as currently written.

Mr. Mabry asked if we could get the language changed to count AbilityOne competitive integrated employment would you support he bill? All said aye.

Mr. Mabry asked the board if they agreed that in today's meeting there was consensus that there will be a revised national public policy regarding the elimination of 14C by the National Symposium. Regarding the Transformation to Competitive Employment Act, board members will be working on the Hill with the appropriate members and committees to negotiate change to the bill language.

He asked if everyone generally agrees with this statement. All members were in agreement.

Several members said they thought a notice should be sent to the membership telling them there was a special meeting of the board to discuss these issues and the outcome of today's meeting. Mr. Mabry will prepare this notice to send out, and he will ask that any members who have issues or questions to get in touch with him and if there needs to be another board meeting to discuss prior to the Symposium, one will be called.

The board agreed with this decision.

There being no further business to discuss, Mr. Mabry asked for a motion to adjourn the meeting. Motion was made and accepted by the board. The meeting was adjourned.

February 8, 2019

Dear Members of the Board of Directors,

As shared by Todd Tiaht in his weekly update, this week Chairman Bobby Scott, D-VA, of the House Education and Labor Committee along with Rep. Cathy McMorris Rogers, R-WA, filed the HR 873 *Transformation to Competitive Employment Act* in the House. A similar bill has been filed in the Senate without Republican cosponsors, S 260, by Sen. Casey, D-PA. It is by no means a perfect bill and will surely be amended as it goes through the legislative process. Additionally, a bill introduced by Democrats earlier this year to increase the minimum wage to \$15 by 2024 includes a provision to phase out subminimum wages. Momentum is building.

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So, I'd like to conduct an informal poll of our board and would appreciate your feedback next week.

1. Would you support a policy statement calling for the elimination of 14c?
2. Would you be willing to attend a special meeting of the board for the purpose of discussing whether we should take a position on the *Transformation to Competitive Employment Act*?

Once I get your feedback, I'll determine next steps.

Reinhard Mabry

President & CEO



01.31.19

Chairman Scott, Senator Casey, and Congresswoman McMorris Rodgers Introduce Bipartisan Bill to Help Workers with Disabilities Transition to Competitive, Integrated Employment

“Expanding competitive integrated employment results in higher wages and greater satisfaction for workers with disabilities.”

WASHINGTON – Congressman Bobby Scott (VA-03), chairman of the Committee on Education and Labor, Senator Bob Casey (D-PA), and Rep. Cathy McMorris Rodgers (WA-05) introduced the *Transformation to Competitive Employment Act*, which provides states, service providers, subminimum wage certificate holders, and other agencies with the resources to help workers with disabilities transition into competitive, integrated employment

The *Transformation to Competitive Employment Act* is legislation designed to strengthen and enhance the disability employment service delivery systems throughout states while subminimum wages, which are currently allowed under Section 14(c) of the *Fair Labor Standards Act*, are phased out over a six-year period.

Currently, under section 14(c), employers that obtain a certificate are permitted to hire individuals with disabilities at less than minimum wage.

“Every worker should have access to fulfilling employment and economic self-sufficiency. This bill achieves those goals by advancing a culture of inclusion and collaboration between employers and service providers to enable individuals with disabilities to be successful in the workforce with a fair wage,” **said Congressman Scott.** *“By expanding competitive integrated employment, we*

can raise wages, increase job satisfaction, and promote community participation for workers with disabilities. This legislation is an important step toward creating one fair wage for all.”

“Holding a job provides many benefits including economic self-sufficiency, a sense of self-worth and social networks. But, for far too many individuals with disabilities, the dignity of work is still out of reach,” **Senator Bob Casey (D-PA)**. *“Addressing the barriers to employment for people with disabilities means ensuring supports for finding and keeping good-paying jobs. Chairman Scott and I introduced the Transformation to Competitive Employment Act to help organizations strengthen and expand disability employment services and make it possible for people with disabilities to achieve financial security.”*

“Disability employment is the next policy frontier to empower people with disabilities to live full and independent lives. A job is so much more than just a paycheck, it’s what gives us dignity, purpose, and the opportunity for a better life. I look forward to continuing to work in a bipartisan fashion to ensure more people -- who are ready, willing, and able to work -- find employment,” **said Congresswoman McMorris Rodgers**. Upon enactment, the *Transformation to Competitive Employment Act* would:

- **Create a competitive state grant program** to assist states to transition all 14(c) certificate holders to models that support competitive, integrated employment for individuals with disabilities. States will be able to apply for these transformation grants and must establish an advisory committee that includes employers, organizations specializing in employment for individuals with disabilities, Medicaid agencies, AbilityOne contractors, individuals with disabilities, and vocational rehabilitation agencies.
- **Create a competitive grant program for current 14(c) certificate holders**, located in states that do not apply for the state grant, to transition their business models to support individuals with disabilities in competitive, integrated employment.
- **Immediately freeze the issuance of any new 14(c) certificates** by the Department of Labor (DOL) and phase out the use of existing 14(c) certificates over 6 years until employees are paid the federal minimum wage.
- **Establish a technical assistance (TA) center to support all entities**, even those not receiving the transformation grants, to transition to competitive integrated employment. The TA center, which will be funded by DOL, is tasked with disseminating information

about best practices, lessons learned, and models for transition to all entities transitioning to competitive, integrated employment.

- **Require reporting and evaluation** on the progress of creating and expanding the service delivery structure to support workers with disabilities in competitive integrated settings and the inclusive wraparound services they receive when not working. States and 14(c) certificate holders will also be required to report on their grant activities, evaluate changes in employment for individuals with disabilities, report average wage information, and evaluate employer actions taken to comply with the phase out of 14(c) and transformation grants.

To read **the section-by-section** of the *Transformation to Competitive Employment Act*, click [here](#).

To read a **fact sheet** on *Transformation to Competitive Employment Act*, click [here](#).

List of Supporting Organizations: American Network of Community Options and Resources (ANCOR), Association of People Supporting Employment First (APSE), Association of University Centers on Disabilities (AUCD), Autism National Committee, Autistic Self Advocacy Network (ASAN), Autism Society of America, Center for Public Representation (CPR), Collaboration to Promote Self-Determination (CPSD), Council of State Administrators of Vocational Rehabilitation (CSAVR), Disability Rights California, Disability Rights Education & Defense Fund (DREDF), Disability Rights Florida, Disability Rights Iowa, Disability Rights New Mexico, Michigan Protection and Advocacy Service, Inc., National Association of Councils on Developmental Disabilities (NACDD), National Association of State Directors of Developmental Disabilities Services (NASDDDS), National Council on Independent Living (NCIL), National Disability Institute (NDI), National Disability Rights Network (NDRN), National Down Syndrome Congress (NDSC), National Federation of the Blind (NFB), National Rehabilitation Association, TASH, Inc.

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Press Contact

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