

# The Fair Labor Standards Act and Section 14(c)– How Does it Affect Those With Disabilities?



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# What is the Fair Labor Standards Act?

- The Fair Labor Standards Act (FLSA) is a federal law that establishes:
  - Minimum wage
    - Federal minimum wage: \$7.25
    - Delaware's current minimum wage: \$10.50
  - Overtime pay eligibility
    - Any hours worked over 40 hours in a week
  - Recordkeeping
    - Employers must keep employee time and pay records
  - Child labor standards
    - Protect education opportunities of minors
    - Prohibit employment in jobs that could be detrimental to health and well-being
- Affects full and part time workers in private sectors, federal, state, and local governments

# What Does This Mean for Workers With Disabilities?

- Section 14(c) under the Fair Labor Standards Act
  - Allows employers who have obtained a certificate from the Wage and Hour Division to pay subminimum wage to workers who have a disability
- Section 14(c) does not apply unless the disability impairs the workers productivity
- Wages must be paid based on the individual's productivity
  - If a job pays \$15.00/hour and an individual is found to work at 50% productivity, they would be paid \$7.50/hour

# Is This Really “Fair”?

- Nearly one in three people between the ages of 18 to 64 who live with a disability also live in poverty
  - This number is twice the rate of working-age individuals without a disability
- In 2019 in Delaware:
  - 18.3% of individuals with a disability lived in poverty
  - 11.3% of individuals without a disability lived in poverty
  - This leaves a gap of 7%
- Labor Force Participation (2019)
  - Individuals with disabilities: 19.6%
  - Individuals without disabilities: 66.4%
- Unemployment Rate (2019)
  - Individuals with disabilities: 12%
  - Individuals without disabilities: 6.6%

# What Does This Look Like In Delaware?

- As of 2021 Delaware had two employers with 14(c) certificates but has began looking to phase out use of these certificates
- One company, Chimes, has a mission statement to “assist people with developmental and behavioral challenges to achieve their fullest potential”
- A 2020 report from Chimes showed that they employed 208 individuals under this certificate, and paid them an average of \$2.07/hour while working 28 hours/week

# Our Mission

The mission of Chimes is to help people with disabilities engage more fully in life's opportunities, to provide employment and training opportunities for people with disabilities, and to support and promote the overall health and well-being of people by helping them understand, manage, and overcome problems.

# Our Vision

Our vision is for all people to be able to live empowered and enriched lives, to the best of their ability.

# Our Values

- **Commitment:** We are committed to excellence in all we do and are passionate about our work and the people we serve.
- **Respect:** We accept personal differences, treat others with dignity, and demonstrate consideration for the opinions and needs of others.
- **Integrity:** We are dedicated to the highest standards of professional conduct and transparency.
- **Prudence:** We exercise sound judgment and take responsibility for our actions.

# Where DOESN'T This Occur?

- The following 10 states have passed legislation to eliminate subminimum wage:
  - Alaska
  - California
  - Colorado
  - Delaware
  - Hawaii
  - Maine
  - Maryland
  - New Hampshire
  - Oregon
  - Washington

# What Is Being Done To Change This?

- Executive Order 13658: Raising the Minimum Wage for Workers with Disabilities
- Signed by President Obama in February of 2014
- Established a minimum wage that must be paid to workers
  - Employees under a covered contract must be paid no less than \$10.10
- Employees with a disability may still be paid subminimum wage but only if it is higher than the wage under Executive Order 13658
  - If a job pays \$22/hour and an employee works at 50% productivity, they would be entitled to the wage of \$11/hour because it is higher than the established minimum wage



# To End on a Lighter, More Personal Note... Meet Noah!





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**dsadelaware** We are SO excited to share that Noah, one of the graduates of our job training internship, has officially been hired to work at [@grainonmain!](#)