

## A DAD'S STATEMENT ABOUT HIS ID SON WHOSE WORK CENTER PROGRAM IS IN JEOPARDY OF ELIMINATION

My name is Ted Schwartz. I am a Philadelphia and Pennsylvania Trial Lawyer, Past President of the Pennsylvania Trial Lawyers Association (now PAAJ), and Past Governor of the Association of Trial Lawyers of America (now AAJ). More relevantly, I am a Proud Member of the A Team, a leading National Advocacy Force for individuals with disabilities and their families. I am also the Father of Scott Schwartz, now 44 years old and one of the first individuals diagnosed with Fragile X Syndrome, a genetically inherited form of Intellectual Developmental Disability (IDD) on the Autism Spectrum, which rivals Down Syndrome as the most prevalent IDD cause worldwide. Scott graduated from his Special Needs School 23 years ago and thereafter tried competitive employment unsuccessfully.....on 5 different occasions. He has thrived at his Work Center (WC) Associated Production Services, for 21 consecutive years. His annual Individual Service Plan (ISP) has carefully monitored his progress, or lack thereof, and each time concluded that a Work Center would be the optimum place for him vocationally. IT WAS AGREED UPON BY ALL STAKEHOLDERS THAT SCOTT WOULD BE MOST SUCCESSFUL AT A WORK CENTER. There are tens of thousands of Scotts around the United States, who are happy and content with their employment in a Work Center. In addition, Moms and Dads of these thousands of IDD individuals, in addition to the other everyday stresses that they are currently undergoing, are Extremely Anxious over past Congressional Proposals which unfortunately have been incorporated into the present Biden American Rescue Plan, which eliminates the Section 14 (c) Subminimum Wage Exemption of the Fair Labor Standards Act. This proposal states as follows:

"The president-elect is calling on Congress to raise the minimum wage to \$15 per hour and end the tipped minimum wage and sub-minimum wage for people with disabilities so that workers across the country can live a middle-class life and provide opportunity for their families."

Although no bill has been drafted at this time, it is expected that the proposed legislation will mirror those introduced previously, such as S. 260, S. 150, and H.R. 873, all of which provide for gradual eliminations of the issuance of special certificates which allow Work Centers to pay their workers sub-minimum wage. To understand how the passage of this legislation would wreak havoc upon the life of each and every IDD individual and their families, please consider the following facts and probable scenario:

1. IDD individuals at Work Centers (formerly called Sheltered Workshops) get paid by piecework. They stuff soda boxes, they place cough drops in boxes or bags, they screw tabs into S Hooks, and so on. Work Centers contract with legitimate, real businesses, large and small across the country and the world. These are real jobs. If the people at Work Centers weren't doing them, they would likely be shipped overseas or automated. These light assembly and packaging positions may seem mundane to others, but they give meaning, purpose, and productivity to hundreds of thousands of people with significant disabilities every day. The 14c Special Wage Certificate gives people the opportunity to work at their pace and performance level while paying them based on commensurate wages. Said another way, if the commensurate wage for a job is \$20.00 an hour, and the employee is working at 100% capability and productivity, then that individual gets paid \$20.00 per hour. The jobs that are contracted with Work Centers are commensurate with their skill and productivity level, and are provided regardless of their performance rate, thus allowing them to work at their own pace.

Moreover, it is NOT about the money for these IDD workers. It is about Pride, Accomplishment and Self Esteem, the ability to get up in the morning, go to work, and then come home and brag that they accomplished something at work that day.

2. Assuming this mandatory minimum wage legislation is passed for IDD individuals, they will be thrust into the Community seeking Competitive Jobs, for which they are not physically, mentally or emotionally qualified. They will be asked to work shorter hours unassisted, or longer hours with a Job Coach. In the former scenario, an unassisted job will necessitate shorter hours and will result in the IDD individual going home either before or after lunch with the need to be monitored by Mom or Dad, raising the possibility that one parent may have to quit his/her job, thus losing family income. In the latter scenario, the IDD worker will require a job coach, thus providing double cost to the employer to do one job. The Employer will naturally pass these increased costs along to the consuming public. Thus, we are left with the very real probability of creating economic chaos for the family, or for the public who patronizes that employer.

3. The Biden position does not consider that either the job coach or the Community will be responsible for the IDD individual's safety while on the job, will be responsible for administering medication to them while on the job, and will be responsible for their safety while using the bathroom. These services are already provided by Work Centers.

4. The position and assumed proposed legislation does not contain any testing or other evaluative criteria to determine who or who is not qualified to work in a Community Setting. Instead, the former legislation and presumed position provides a "Phase In" period for IDD individuals to acclimate themselves to Community Setting Positions, thereby assuming that their disability will magically disappear within the 6- or 10-year proposed periods. Intellectual Developmental Disability does not magically "go away" as some thought about the COVID-19 virus. The same disability that an individual has today will be present 6 or 10 years from now; in fact, for life. It is true that some individuals can progress, and to that extent, yearly evaluations do occur as to that IDD individual's suitability for Community Employment. To throw a blanket over this entire group of individuals with one standard is not only wrong, it is immoral.

5. All of these cogent points were attempted to be raised by the minority view of committee members to The United States Commission on Civil Rights, who issued a report in favor of repealing 14 (c); however, the Commission PRECLUDED such a formal minority report from being issued.

6. Overwhelming opposition has mounted to the concept of repealing 14 (c) and forcing IDD individuals into Community Setting Workplaces, from thousands of parents and guardians of IDD individuals, Special Needs Professionals, Medical, Law and Psychological Professionals. Please consult Facebook and other Social Media sites, together with letters received from all the above specialties.

7. I have reviewed peer reviewed research that analyzed the experiences of IDD individuals who entered the Competitive Community Workplace, in several states, including Massachusetts, Michigan, Maine, Washington State and Vermont. In each case, IDD workers encountered severe difficulty adapting to Community Employment, especially those with severe disabilities. Continuation of Work Centers was recommended.

8. Lastly, but most importantly, the perception that Work Centers are "Sweatshops" because they do not pay Minimum Wage, and have poor working conditions, is wrong, without merit, and fostered by those who did not conduct a meaningful inspection of many of these Work Centers. Some may be sub-standard,

but all of them are licensed and subject to State Inspection. As part of this reform legislation, therefore, we propose additional Task Forces or Commissions to ease the concerns of the Legislators and Regulators, but that certainly is no reason to throw the baby out with the bathwater, and de-facto close all Work Centers, when they are so desperately needed.

Indeed, Work Centers are honorable workplaces, with all employees provided support, training and mentoring throughout their days from vocational rehabilitation professionals. At Individual Service Plan conference, employees are consistently asked if they want to continue working at their Work Center or pursue competitive employment. CHOICE is the watchword. All conferences are accompanied by a thorough documentation of services provided, performance achieved and measurable objectives, which codifies the events at the conference.

Additionally, we believe that the de facto mandating that every IDD individual work in a Community Setting without an equal mandate of Every employer to accept ALL IDD individuals and provide them with essential services and mandate specific care programs (training, distribution of meds during the day, eating facilities, etc.) smacks of a Constitutional denial of Equal Protection provided under the 4th and 14th Amendment.

I and the A Team would not prefer to go down the adversary road. Instead, we would like to be part of the solution. We thus stand ready, willing, and able to discuss these issues and realistic solutions, so that everyone experiences a win-win situation. Please therefore contact me at the address for future discussion.

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