

January 22, 2019

Senator Todd Weiler
Utah State Senate
320 State Capitol, P.O. Box 145115
Salt Lake City, UT 84114

Dear Senator Weiler;

Prior to the mid-1970's people with disabilities were largely absent from public life in our schools and communities. Most people with disabilities lived their entire lives within publicly funded asylums and institutions, where they were out of sight, out of mind. Asylums and institutions were promoted as "safe" places to "protect" people with disabilities, but most became warehouses for a population that society didn't want to deal with.

In the mid-1970's the U.S. began the process of 'deinstitutionalization' in response to reports on the appalling and degrading conditions within most institutions. Since that time we have made remarkable progress towards ensuring people with disabilities are included as part of our communities. Legislative landmarks like Special Education (1973), Home and Community-Based Services (1983), the Americans with Disabilities Act (1990), and the Developmental Disabilities Assistance and Bill of Rights Act (2000) have helped to ensure that people with disabilities are afforded the same rights as everybody else.

Although we have made significant progress since the 1970's, people with disabilities in Utah are still segregated and paid sub-minimum wage in sheltered workshops that continue to reinforce an expectation that people with disabilities cannot be employed in our communities in integrated settings. Sheltered workshops are work centers which exclusively or predominantly employ people with disabilities. Many hold 14(c) certificates, so named after the section of the Fair Labor Standards Act allowing certain employers to pay people with disabilities less than minimum wage. Sheltered workshops have slowly been on the decline across the United States since the 1980's, although Utah has a strong sheltered workshop "lobby" that continues to seek to maintain this outdated service model.

Excluding workers with disabilities from minimum wage protections denies them equal protection under the law. Employees with disabilities in a sheltered workshop can be paid as little as pennies an hour, while the service providers generate tremendous profits through lucrative corporate contracts. Make no mistake: even non-profit workshops are businesses, and like any business, they seek to maximize their profits. Corporations and service providers that use sheltered workshops are making a profit through government subsidized labor that exploits people with disabilities.

To further problematize this issue, workers with the greatest likelihood of success in the general workforce are those that sheltered workshop supervisors are most loath to part with. These workers are necessary to ensure that the workshop can deliver on its contracts. Workers with disabilities in sheltered workshops lack any recourse to improve their economic prospects because the people whose job it is to assist them in doing so have a vested interest in keeping them where they are.

18 years ago, the Supreme Court ruled that keeping people with disabilities in separate work settings constitutes discrimination (see *Olmstead v. L.C.*). Including people with disabilities in all aspects of community life, but especially in employment, is an important step towards modernizing Utah's disability

service system. Keeping people with disabilities in separate, segregated settings merely reinforces the assumption that they cannot be gainfully employed in our communities.

People with disabilities deserve an equal opportunity to live, learn, work, and play in our communities. Today in Utah, many people with disabilities go straight from public school into a sheltered workshop setting, where many remain. Many people with disabilities are denied the opportunity to try different jobs and learn through discovery and experience. People with disabilities, like the rest of us, deserve the opportunity to learn through trial and error and to experience the dignity of risk and the rewards of working in a job of their own choice.

We believe that the State of Utah's plan to bring the state of Utah into compliance with HCBS Settings Rule, is a good first step in changing the employment expectations for people with disabilities. We would welcome an opportunity to sit down with you and your staff to discuss the issue of employment and community integration for people with disabilities in Utah. We firmly believe that Utah can do a better job of serving our citizens with disabilities, and we would like to work with you to identify proactive solutions.

Sincerely,



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