
Lack of Opportunity for Full Employment at a Living Wage

Unemployment and underemployment are at the core of poverty. For low-income individuals and families, work that pays a living wage is the only means to improve their living situation. As a result, the creation of jobs should be the centerpiece in a strategy to address the reduction of poverty. This job creation should focus not only on the quantity of jobs, but the quality as well, including job equity and job security, especially for those who face systemic obstacles and barriers due to gender, age, disability, race and ethnicity, and other factors that intersect with poverty, and may contribute to disparity of opportunity. In addition to jobs, there should be a focus on providing people living in poverty with education and skills training that will enable them to reach their full employment potential.

Over the years, the ABA has taken policy positions and sponsored position papers focused on the various issues involved with this topic. These policies and positions are based on the knowledge and intellectual work product of lawyers who could be in a unique position to strengthen community-based efforts to address structural barriers to full employment at a living wage for many low-income communities. Lawyers can work shoulder-to-shoulder with stakeholders including community-based entities, providers/advocates, academic communities, foundations/funders, politicians, program users/beneficiaries and the general public to use the law and justice system to tackle systemic barriers and obstacles to full employment at a living wage.

The ABA Commission on Homelessness & Poverty has compiled for informational purposes only—and without any intended endorsement--the following Issues and potential Strategies for consideration as each community develops its own unique local plan of action for eliminating legal and justice system related policies, practices, and procedures that unfairly perpetuate or worsen the harmful effects of poverty, particularly those that serve as unfair obstacles and barriers to full employment opportunity at a living wage. The Commission is able to offer technical assistance in identifying and convening community stakeholders for roundtable discussions to develop strategic plans for local community action.

ISSUE: LACK OF ADEQUATE JOB OPPORTUNITIES

Research demonstrates that a well-paying job is one of the best ways for an individual to move out of poverty. It is estimated that 5.6 million jobs need to be created in order to get back to the pre-recession level of employment. Any holistic approach to addressing poverty will require investing in job creation strategies, including strategies that foster the creation of jobs in the private sector and governmentally subsidized employment to assist those who have endured long-term unemployment and other disadvantaged workers.

Currently, work supports for low-income workers are primarily geared towards meeting the employment needs of small businesses. Consideration should be given to striking the right balance in
government policy between the needs of small businesses and worker or work-seeker friendly support such as a “one stop” approach to workforce development that offers a comprehensive package of services with key features including:

1. a “no wrong door” to entry approach;
2. variable packages of services that serve workers based on their needs, not on point of entry or funding stream;
3. allowing job seekers to move seamlessly between programs authorized under different laws;
4. support for learning and training in skills & credentials required for in-demand occupations.

STRATEGIES:

• Advocate for businesses to make use of the Workforce Innovation & Opportunity Act (WOIA) and assist community-based organizations and poverty law advocates with WIOA accountability measures to ensure that the law’s provisions and requirements are being effectively carried out.

• Create pathways for lower skilled employees to move along an internal career path to higher skilled jobs.

• Request that businesses consider expanding funding for job training and wage support programs for new hires and give preferential funding to job training programs that successfully serve, place, and retain job seekers.

• Advocate legislatively to expand and incentivize transitional job programs for TANF recipients, long-term unemployed and at-risk youth.

• Encourage businesses to implement work-based learning and apprenticeship opportunities as a workforce training approach.

RESOURCES:
Description from www.clasp.org/resources-and-publications/publication-1/WIOA-Implementation-Opportunities-for-Partnership.pdf, David Socolow, dsocolow@clasp.org, August 26, 2015; http://www.clasp.org/wioagameplan

United States Department of Labor, Employment and Training Administration: www.doleta.gov/wioa

Office of Career, Technical, and Adult Education: Workforce Innovation and Opportunity Act: http://www2.ed.gov/about/offices/list/ovae/pi/AdultEd/wioa-reauthorization.html

Innovation & Opportunity Network: https://wioa.workforce3one.org/page/home
ISSUE: LACK OF SUPPORT SYSTEMS AND FLEXIBILITY FOR THE WORKFORCE

Studies indicate that dealing with childcare, personal or family illness and the logistics of getting to and from work is especially challenging for those in low-wage or hourly jobs. On the average, one third of a poor families’ income goes to child care. Addressing these special challenges will require consideration of ways to strengthen workforce support systems through legislation and voluntary implementation of employment policies that increase flexible scheduling, leave benefits and innovative public-private partnerships.

STRATEGIES:

- Encourage legislatures to consider further improvements to the Earned Income Tax Credit and to expand the Earned Income Tax Credit to childless workers and to young adults.

- Encourage legislatures to consider expansion of funding for child care assistance.

- Encourage local and state legislatures and the business community to consider policies that would provide sufficient paid leave to avoid low wage workers from being put into a position of having to forego needed income or employment due to the illness of a family member or the birth of a child.

- Encourage local businesses to voluntarily implement provisions of the proposed Schedules That Work Act (e.g., require two weeks’ advance notice of worker schedules, allowing employees to request schedule changes without retaliation) that may be consistent with business interests in promoting a stable workforce without excessive turnover and higher training expenses due to workers who terminate because their income and schedules are not adequate and predictable.

RESOURCES:

Oregon Senate Bill 454 (passed): Implement mandatory 40-hours annual paid sick leave for businesses employing at least ten persons:
https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB454/Enrolled

**ISSUE: NEED FOR A LIVING WAGE AND PAY EQUALITY**

Research shows that in the late 1960’s a full-time worker earning the minimum wage was able to lift a family of three out of poverty. That fact is untrue today. Increasing pay to living wage levels would not only create a path out of poverty, but would also be good for families and for the economic recovery of the country. Workers whose labor is compensated with a living wage can get out of debt and stay debt-free, lessening the likelihood of financial exploitation and strengthening the nation’s sense of economic justice for those who have suffered most from the country’s economic crisis.

In addition to advocacy that promotes jobs that pay workers a living wage, pay equality should be addressed. It is well documented that female full-time workers earn 78 cents for every dollar earned by men. Obtaining pay equality would conceivably cut poverty in half for working women and add nearly a half trillion dollars to the nation’s gross domestic product.

**STRATEGIES:**

- Advocate for local and state legislatures to consider establishing a living wage linked to geographic cost of living differentials and to inflation.

- Encourage businesses to voluntarily institute policies and practices consistent with pay equality and ending the gender wage gap, e.g., the Schedules That Work Act, the Paycheck Fairness Act, promoting equity for Tipped-Wage Employees, Miami-Dade County Social Equality Policy.

**ISSUE: INABILITY TO OVERCOME OBSTACLES AND BARRIERS TO EMPLOYMENT FOR YOUNG MEN OF COLOR**

Research shows that young men of color, especially those in poor and low-income communities, have some of the worst employment and education outcomes. They are disproportionately negatively affected by the criminal justice system and suffer from poor health outcomes. However, these young people are also fathers, brothers, sons, and indispensable members of our nation and communities. They are parents (custodial and non-custodial) of young children, whose success is placed at risk by economic instability. Their children’s futures are inextricably linked to their success and their ability to access opportunities and pathways out of poverty.

Employment is an important part of youth development and successful progression into young adulthood. Ages 16 through 24 are critical development years, as young people prepare to take on adult
responsibilities. A key predictor of consistent employment in adulthood is early exposure to the world of work through summer and year-round employment, internships and service opportunities during the teen years. Youth who have been employed tend to have higher earnings in young adulthood. Additionally, teens who are employed are more likely to stay in school and graduate high school.

**STRATEGIES:**

- Utilize the recently passed Workforce Innovation and Opportunity Act (WIOA) to provide local and state communities with an opportunity to improve access to workforce education and training for low-income young adults and out-of-school youth, who are disproportionately young people of color.

- Encourage creation of a new workforce system that addresses these target communities’ needs and leverages economic development and state and local education opportunities (such as community colleges).

- Leverage other resources, such as state and local workforce development boards, to focus additional resources beyond Title I Youth funding (e.g., through governor’s statewide set-aside allocations) to serve out-of-school young men of color.

- Ensure that state and local plans detail how they will support a continuum of services across programs along a career pathway.

- Help in the implementation of interventions that target this population, such as transitional jobs, pre-apprenticeships and apprenticeships, and integrated education and training in partnership with post-secondary institutions.

- Foster creation of sustainable state and local community-based systems of workforce services that provide opportunities for career exposure, exploration and employment—including work exposure and entry-level jobs—to respond to labor demand and emerging work opportunities for which young men are prepared.

- Advocate for employer-focused strategies that increase young men’s exposure to work in ways that tear down employer misconceptions including employment programs and interventions that help young men gain access to employers and work opportunities that would ordinarily be closed to them.

- Ensure that federal, state and local governments, along with partners in the private sector, make budgetary investments in summer and year-round work experience and other try-out employment strategies, such as entry-level internships that provide stipends and wages and expose young men to careers, professional environments and the world of work.
• Advocate for use of federal, state and local funding to implement subsidized employment options such as transitional jobs for short- and long-term job placements for young men with limited work experience and those who face other barriers as a result of homelessness, involvement with the justice system and/or behavioral and mental health challenges.

• Create public and private partnerships to expand pre-apprenticeships and registered apprenticeships to allow young men to build their vocational, technical and educational skills, and explore a career path prior to entering a registered apprenticeship program in a specific industry.

**RESOURCES:**

**ISSUE: REMOVING OBSTACLES TO EMPLOYMENT FOR FORMERLY INCARCERATED PERSONS**

In many instances, involvement with the justice system and felony convictions prohibit men and women from access to employment as well as the educational, job training, federal student aid and stable and secure housing supports needed to allow success at work.

Advocacy to remove barriers to reentry is gaining traction due to research showing the high human and fiscal costs of decades of “tough on crime”, drug and other public policy approaches and of how the criminal and civil justice systems can intertwine in ways that criminalize poverty and race. Emphasis on diversion is also gaining traction. Diversion can address any intervening before poverty and race factors disproportionately draw certain populations into the criminal justice system.

**STRATEGIES:**

• Create local Reentry Legal Clinics that work to remove barriers to employment, housing and access to other public services for clients with a criminal record. Such a clinic, in partnership with volunteer attorneys, provides brief information and advice without any cost. Clinic cases may sometimes form the basis for class-wide advocacy as necessary to enforce anti-discrimination laws impacting previously incarcerated persons.

• Advocate for fair hiring policies at the federal, state and local levels that remove unfair barriers to work that are based solely on prior criminal history and involvement with the criminal justice system. Examples of such innovative policies include so-called “Ban the Box” and “Fair Shot” legislation and ordinances that offer a potential worker the opportunity to be interviewed and explain prior criminal justice system involvement instead of facing automatic rejection. Such policies aim to reduce the stigma of incarceration and base employment decisions on applicants’ qualifications.
• Advocate for local and state legislatures to pass the legislation similar to the Certificate of Restoration of Opportunities Act (“CROP”), which would remove barriers to occupational licenses for persons with a criminal history. If passed, the bill would allow a formerly incarcerated person to apply for a certificate showing that they had met the terms of their sentence. Once received, a licensing board could not deny an application based on criminal history alone.

• Advocate for state legislatures to consider passing a Youth Equality and Reintegration “YEAR” Act, which would abolish most of the court costs, fees and fines levied against juveniles, who, due to childhood mistakes, have little hope of paying upon their release.

RESOURCES:
Local/State Advocacy Examples from Washington State (Jerri Katzerman, Statewide Advocacy Director at Columbia Legal Services, Jerri.Katzerman@columbialegal.org)

ABA POLICY POSITIONS:

• **Employment of People with Convictions.** (February 2007) Urges state agencies and licensing boards to develop and enforce policy on the employment of people with convictions, including the contractors and vendors who do business with the state. 07M103C

• **Youth Jobs Program.** (February 1993) Urge local and state bar associations to adopt a youth jobs program similar to the Summer Law Internship of the Bar Association of Metropolitan St. Louis, providing summer employment, education, esteem and enhancement of future socio-economic potential for inner city youth, while simultaneously improving public perception of lawyers and the legal profession. 93M8F

• **Rights of Farmworkers.** (August 1999) Support efforts to improve wages, working conditions and housing for farmworkers; enhanced enforcement of laws regulating the rights of farmworkers and according legal resident status to noncitizen farmworkers presently working in the United States. Oppose any expansion of the existing H2A nonimmigrant visa category for admitting temporary agricultural farmworkers to the United States either by changing the temporary labor certification process or by repealing or lowering existing H2A requirements. 99A106

• **Opportunities for Youth in the Juvenile or Criminal Justice Systems.** (February 2010) Urges federal, state, territorial and local governments to increase the opportunities of youth involved with the juvenile or criminal justice systems and to prevent the continuing discrimination against those who have been involved with these systems in the past by limiting the collateral consequences of juvenile arrests, adjudications, and convictions. 10M102A

• **Due Process and Access to Legal Assistance in Workplace Enforcement Actions.** (February 2009) Supports legislation and/or administrative standards to ensure due process and access to appropriate legal assistance for persons arrested or detained in connection with immigration enforcement actions
and encourages bar associations to raise awareness of the rights available to individuals taken into custody during workplace immigration enforcement actions. 09M101C

- **Discrimination on the basis of Homeless Status.** (August 1986) Support legislation to (1) prohibit discrimination on the basis of transient or homeless status; (2) address the need for emergency relief to individuals and families without permanent shelter; (3) encourage public and private initiatives to increase the supply of habitable low-cost housing in the United States; and (4) adopt public policies and programs that will contribute to the ability of homeless people to become productive citizens. 86A115