

## FACT SHEET

# A CIVIL RIGHTS ISSUE

## THE TIPPED MINIMUM WAGE & WORKING PEOPLE OF COLOR

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### TIPPING IN THE U.S. IS ROOTED IN RACISM

Tipping has not always been a common practice in the United States. Before the Civil War, tipping was [frowned upon](#): it was viewed by many as an aristocratic, European practice that was incompatible with American democracy. After the Civil War, however, many restaurants and rail operators [embraced](#) tipping because it allowed them to “hire” newly freed slaves without having to pay them—they would be forced to work for tips alone.

An early 20<sup>th</sup>-century southern journalist recounted being uncomfortable tipping White working people. As he [observed](#) in 1902, “one expects ... Negroes [to] take tips ... it is a token of their inferiority. But to give money to a White man was embarrassing to me.” Tipping was designed to keep African Americans in an economically and socially subordinate position.

### RACISM SHAPED THE FAIR LABOR STANDARDS ACT (FLSA)

The FLSA was crafted as compromise legislation that would maintain the Jim Crow racial order that emerged after the Civil War. When Congress originally debated the FLSA in the 1930s, southern Democrats balked at the idea of guaranteeing African-American working people a wage floor. Texas Democrat Martin Dies [stated](#) openly in hearings on the legislation, “you cannot prescribe the same wages for the Black man as the White man.” In the end, the bill [did not](#) provide protections to agricultural and domestic workers, the principal occupational categories of African Americans in the South. The racist underpinnings that shaped the FLSA as a whole also influenced the treatment of people working for tips.

### THE RACIST ORIGINS OF THE TIPPED MINIMUM WAGE

Under the Fair Labor Standards Act (FLSA), certain categories of working people can be paid less than the federal minimum wage by their employers, such as people working for tips. When Congress debated the FLSA over the course of 1937 and 1938, lawmakers [did not discuss](#) people working for tips. The final text of the FLSA did not explain how to treat tips when calculating whether workers were being paid the minimum wage. Like many other working people, people who worked in restaurants [were not covered](#) by the act’s protections.

Subsequent Supreme Court decisions, however, [held](#) that employers could count their employees’ tips toward their wages when determining whether they were paid the minimum wage. So long as workers’ income from tips met or exceeded the established

federal minimum wage, employers did not need to pay them anything.

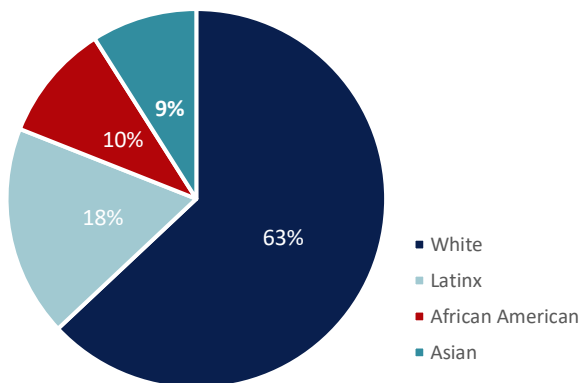
In 1966, Congress for the first time [required](#) employers to pay tipped employees a base wage, set originally at 50 percent of the federal minimum wage. But the tipped minimum wage has been frozen at \$2.13 an hour [for more than 25 years](#), and it now stands at less than 30 percent of the value of the federal minimum wage, which is \$7.25 an hour.

## THE TIPPED MINIMUM WAGE DISPROPORTIONATELY HARMS WORKING PEOPLE OF COLOR TODAY

Almost 40 percent of people who work for tips are people of color: 18 percent are Latino, 10 percent are African American, and 9 percent are Asian. Immigrants are also overrepresented in the tipped workforce. The tipped wage perpetuates a system of compensation that disproportionately harms working people of color. Studies of the restaurant industry have shown that customers [discriminate against](#) African-American servers, consistently tipping them less than White servers regardless of the quality of service.

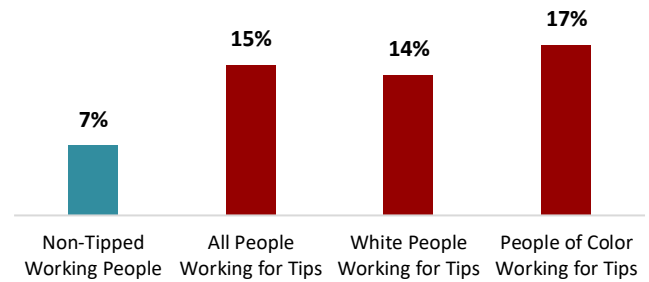
It is not surprising, then, that working people of color feel the impact of the tipped minimum wage more than White working people: 17 percent of tipped working people of color live in poverty, compared to less than 13 percent of all people who work for tips.

### Figure 1. People of Color Are Overrepresented in the Tipped Workforce



Source: Data from ROC-United, 2014. Available at [http://rocunited.org/wp-content/uploads/2014/02/report\\_realizing-the-dream.pdf](http://rocunited.org/wp-content/uploads/2014/02/report_realizing-the-dream.pdf).

### Figure 2. People Working For Tips Face Much Higher Poverty Rates



Source: Data from NELP and ROC-United, 2017. Available at <http://www.nelp.org/content/uploads/Raise-the-Wage-Act-Gradual-Elimination-Subminimum-Wage-Tipped-Workers.pdf>.

## ELIMINATING THE TIPPED MINIMUM WAGE WOULD HELP REDRESS INEQUITIES

**Reduce racial and gender inequities:** Women and working people of color are overrepresented in tipped occupations. They also are more likely to live in poverty than their White male counterparts in the tipped workforce. In addition, tipped women workers in states with a \$2.13 tipped minimum wage [report](#) twice the rate of sexual harassment as women in states that have no tipped minimum wage, in part because they feel they have to tolerate inappropriate behavior to guarantee their income. Eliminating the tipped minimum wage would guarantee women, working people of color, and other people working for tips the same wage floor as everyone else, and improve workplace environments for tipped women workers.

**Reduce poverty:** There is strong evidence that the lower tipped minimum wage is largely responsible for the higher poverty rates experienced by people working for tips. Tipped wait staff and bartenders in states where people working for tips are paid the full federal minimum wage (\$7.25) have a lower poverty rate (10 percent) than their counterparts in states with the \$2.13 an hour tipped wage (18 percent). People working for tips also are [more likely](#) (46 percent) than non-tipped working people (35.5 percent) to rely on some form of public assistance. Eliminating the tipped minimum wage would help raise incomes and address poverty.



This document is based on [Bare Minimum: Why We Need to Raise Wages for America's Lowest-Paid Families](#) by Elisa Minoff, published by The Leadership Conference Education Fund and Georgetown Center on Poverty and Inequality, April 2018.