

# Rhode Island: Disabled students forced to work in sweatshop conditions

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Last week the US Department of Justice, the State of Rhode Island, and the city of Providence reached an interim settlement regarding a school for developmentally disabled students who had been forced to work for as little as 14 cents per hour both at the school and at a not-for-profit to which it funneled most of them when they reached adulthood.

The case, which made national headlines, involved the Harold A. Birch Vocational Program at the city's Mount Pleasant High School and a "sheltered workshop" provider called Training Thru Placement (TTP) in North Providence. Disabled students who were forced into TTP after leaving the Birch Program have often stayed there for 15 to 30 years as adults. They were forced to work at TTP, rather than being given other job opportunities in the community.

According to a June 7 letter from the Civil Rights Division of the Justice Department, "[T]here is little evidence that the City has made any efforts to actively link Birch students to integrated employment or other day services. Evidence obtained during the course of this investigation has revealed that over the past approximately 25 years only a handful of Birch students have ever been placed in individual supported employment after exiting Birch."

Instead, almost all of the students were shunted into TTP, which received nearly \$9 million of government grants between 2007 and 2011. Not only will TTP lose its contract with the city under the interim settlement agreement; its executive director and his son have also been accused of embezzling approximately \$3,000 per month from a copper recycling program. Disabled adults in the program were assigned to replace copper inside remote control devices for Cox Communications. Instead of reinvesting the proceeds from the recycled copper back into TTP as they had promised, the father

and son are alleged to have pocketed them.

Rhode Island, Providence, and the latter's public school district are all implicated in the scandal. The Justice Department letter argues that "the City, in part by operating an in-school sheltered workshop at Birch, has planned, structured, administered, and funded its transition service system in a manner that imposes a serious risk of unnecessary segregation upon Birch students." The Birch Program also did not give bona fide diplomas to graduating students, instead handing them "certificates."

As part of the interim settlement agreement, the city agreed to immediately stop providing sheltered work services at Birch and replace them with a detailed list of "person-centered planning."

Rhode Island now stands accused of ignoring the Birch problems despite knowledge of them a year before the scandal broke. WPRI reported on June 14 about a site visit the state made to Birch in 2012 and the reaction of Rhode Island Education Commissioner Deborah Gist. Gist, who was instrumental in the mass firing of Central Falls High School teachers in 2010, blandly told WPRI that the Birch Program was an "anomaly" and "outdated."

The Justice Department brought its complaint under Title II of the Americans with Disabilities Act (ADA), accusing the city, state and TTP of violating the rights of the disabled by keeping them segregated. Over the years, and sometimes repeatedly, the disabled students and adults had expressed the desire to work in hardware stores, KMarts, or other businesses for which they possessed the needed skills. Instead, they were forced into and kept at the segregated environment at TTP.

The sweatshop conditions in which they worked—including an average hourly wage of \$1.57 at TTP and the hand-sorting and assembly of jewelry at

the Birch Program by 14-year-olds—were allegedly discovered during the investigation of the ADA complaint. However, the payment of “subminimal” wages to disabled workers is allowed under section 14c of the Fair Labor Standards Act, and is widespread across the country.

In September 2001, a General Accounting Office study of 14c exemptions identified 5,600 sheltered workshop providers across the country, and found that approximately 95 percent of the eligible disabled population was working at them, instead of in the community. As states and municipalities look for ways to enforce austerity, with the full support of the Obama administration, the profit system is continually proving to be incapable of providing decent wages or working conditions for disabled workers.

Between 1938, when the FLSA was enacted, and 1966, when Congress added reform measures, 14c exemptions were not needed by organizations employing people who were considered charity cases. Wages below the minimum were allowed. Recent attempts to do away with minimum wage exemptions, such as a federal bill called the “Fair Wages for Workers with Disabilities Act of 2011,” have been left to die in congressional committee. Section 5 of the Introduction of the Justice Department complaint accuses TTP of “violating provisions of the FLSA pertaining to special minimum wage rate certificates.” In doing so, it attacks the criminal behavior of a small organization operating out of “a dilapidated former elementary school.” Yet, while the introduction of the interim settlement agreement “expressly acknowledges ... that the United States will continue its investigation of the remainder of the State’s day activity service system and will seek to remedy any and all violations of Title II of the ADA,” it limits its section 14c accusations to TTP and not other providers.

In addition to the ADA, the June 7 Justice Department letter cites the 1999 Supreme Court case *Olmstead v. L.C.*, which interpreted Title II of the ADA in relation to the institutionalization of disabled people. In the *Olmstead* decision, Ruth Bader Ginsburg wrote: “recognition that unjustified institutional isolation of persons with disabilities is a form of discrimination reflects two evident judgments. First, institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted

assumptions that persons so isolated are incapable or unworthy of participating in community life” and “second, confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.”

Ginsburg tempered her opinion by writing that states should be allowed to trust the decision of their professionals when implementing the ADA. Such a decision would be reasonable in a healthy society, but not here. TTP is now being represented by defense attorney John Cicilline, the father of former Providence mayor and current US Representative David Cicilline, a Democrat. The elder Cicilline also served as a defense attorney for the Patriarca crime family for many years.



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