

JUSTICE NEWS

Senior Counselor to the Assistant Attorney General for the Civil Rights Division Eve Hill Delivers Remarks on the Americans with Disabilities Act

~ Thursday, June 13, 2013

Good morning. Thank you for joining us today as we announce a landmark settlement agreement between the United States, the State of Rhode Island, and the City of Providence, vindicating the civil rights of approximately 200 individuals with intellectual or developmental disabilities (I/DD).

Today's agreement is about opportunity. It's about growth. And it's about human dignity. That's because today's agreement centers on integrating people with disabilities into the engine of the economic mainstream: the workplace.

Work is a fundamental part of adult life for people with and without disabilities. It provides a sense of purpose, shaping who we are and how we fit into our community. Meaningful work – becoming a contributing part of society – is essential to people's economic self-sufficiency, as well as self-esteem and well-being. Participation in the mainstream of American life was the goal of the Americans with Disabilities Act since its passage over 20 years ago. The ADA prohibits state and local governments from segregating people with disabilities just because of their disabilities.

For many people with disabilities, however, the tyranny of low – or no – expectations has cut off the opportunity to work alongside those without disabilities, in real jobs that pay a regular wage. Even 23 years after the ADA though, the State of Rhode Island and the City of Providence have allowed their low expectations to create a system that left people with disabilities no choice but to be separated from society in the sheltered workshops at Training Thru Placement (TTP) and the Harold A. Birch Vocational Program at Mount Pleasant High School (Birch).

What does it mean, to have “no choice?” For Steven Porcelli it means that a young man who worked in a real job after high school at a hardware store, could not – for the next 30 years – escape a sheltered workshop setting where he earned less than \$2.00 an hour doing work he disliked. Because the State only offered services for people with I/DD in segregated places like TTP, he could not return to integrated employment, even though he asked to leave over and over. Steven was trapped at Training Thru Placement for no reason other than the State's choices.

TTP and the State made no effort to help Steven find a job that matched his strengths and interests. TTP had no incentive to do so. The company was a licensed provider of employment services. It got paid to have Steven there. It also got paid by outside businesses for his work. Meanwhile, TTP reported paying its workers with disabilities an average hourly wage of \$1.57 per hour, with one individual making as little as 14 cents an hour.

As a result of its profits and the State's support, TTP became one of the largest segregated employment and day providers in the state for individuals with I/DD.

Speaking of day services: when Rhode Islanders with disabilities aren't working, state law provides that they should get supports to participate in day activities that promote socialization and skill building. But the extent of the state-funded day services at TTP consisted mostly of playing cards, coloring and talking to other workers with disabilities at the facility.

Steven's story is one that Rhode Islanders should feel sad about. But they should also feel angry because these people were robbed of years of productivity, learning, and contributing to their communities.

And this story also played out over decades for many area high schoolers with disabilities. That is because the Birch Vocational Program was essentially a feeder for TTP – a direct pipeline.

Most high schoolers spend four years in school. However, students typically enter Birch at age 14 and do not leave until they are 21 years old. During this time, with few exceptions, the only work experience they have gotten is in an on-campus sheltered workshop. For seven years, these young people have spent 1-2 hours during each school day – and sometimes longer hours, as well as Saturdays – working on contract piecework, just like at TTP.

Students at the Birch sheltered workshop were paid between 50¢ and \$2 per hour, no matter what job function they performed or how productive they were. Some students were paid no wages at all. Such students spent hours a week placing buttons in plastic bags, only to have their work dumped back into a pile at the end of the day.

Because of this training – indeed, cultivation – for life in a sheltered workshop, it is not surprising that in 26 years of operation, less than a handful of individuals transitioned into individual supported employment after leaving Birch. Instead, many ended up at TTP, where they often stayed for decades.

One mother of a Birch student who graduated this week observed that at Birch, her daughter “learned to fixate on what she can’t do, rather than what she can.” But, this mother continued, there is a lot out there that her daughter can do: “She is not a failure; she should have opportunities.”

The ADA requires government services for people with disabilities to be provided in the most integrated setting appropriate for them. The Supreme Court decision making this requirement clear, *Olmstead v. LC*, has been called the *Brown v. Board of Education* of the disability rights movement. And nowhere is that more true than here. TTP and Birch demonstrate in every way that separate is not equal.

I am happy to say, however, that all of the foregoing now definitively belongs in the past. It is a new day in Rhode Island, and especially in Providence, for people with I/DD. The people with disabilities at TTP and Birch are capable of holding regular jobs – individual jobs in typical work settings that pay minimum wage or higher. And they want to.

Under today’s agreement, the State will help every person at TTP to find, get, keep, and succeed in real jobs with real wages. They will accomplish that by providing “supported employment” services.

Over the next year the State and City of Providence will also provide integrated transition services at Birch to prepare them to do the same: find, retain and succeed in real jobs when they leave school. Instead of sheltered workshop experience, students with I/DD will now get exposure to real-world internships, trial work experiences, and other services to ensure that after graduation, they can successfully move into community-based jobs, rather than to segregated settings like TTP. For young people like the ones who held their graduation ceremony at Birch this past Monday, this means the difference between “being dropped off a cliff,” as one parent described it to us, and having the kind of meaningful workweek or career to which we all aspire.

I am proud to say that through this agreement, the State of Rhode Island and City of Providence have truly embraced integrated employment for people with disabilities. Under this agreement, individuals will work, on average, in supported employment for at least 20 hours per week.

And when individuals are not working, they will have access to integrated day services to be able to enjoy doing the things the rest of America does when not working – recreational, social, educational, cultural, and athletic activities, out in the community, right alongside people without disabilities.

Under this agreement those supported employment and integrated day services will support a 40-hour work week. So – for the entire time individuals are not working – they will be offered the opportunity to participate in community-based, integrated activities. This is the first agreement reached by a public entity with the Justice Department to articulate and embrace this “full-time integration” standard.

We are happy to acknowledge that, at this moment, Rhode Island has stopped providing services or funding for new participants at TTP’s sheltered workshop and facility-based day program, and the City of Providence has

stopped providing services or funding to Birch's in-school sheltered workshop. The State and the City of Providence are to be commended for swiftly tackling this problem, and I thank them for their cooperation as the Department of Justice continues its investigation of the remainder of the State's employment and day activity service system.

I would also like to extend thanks to the U.S. Department of Labor (DOL), whose Wage and Hour Division, as part of new strategic enforcement effort between the agencies, first alerted the Civil Rights Division to problems at TTP. Throughout our investigation, DOJ has worked closely with our counterpart to enforce the related provisions of the ADA and the Fair Labor Standards Act. DOJ and DOL share the common goal of ensuring that workers with disabilities receive meaningful employment opportunities and are equitably compensated for their work, according to the law. We are grateful for DOL's assistance and look forward to continuing this important and productive partnership.

For far too long, people with disabilities who can and want to work and engage in all aspects of community life have been underestimated by public service systems that have had limited or no expectations for them. Under this agreement, things are now changing.

Steven Porcelli is especially excited about now having the chance to achieve his 30-year goal of returning to work in the community, where he will have – I quote – “the opportunity to be with different people, to talk to different people, and to feel independent.” When asked what it would mean for him to work in supported employment, Steve responded, “it makes me feel good; it's something that I've wanted to achieve for a long time . . . I just never thought things would change.”

We believe that under this agreement, things will change for the better. At the same time, we recognize that unnecessarily segregated employment and day services are the norm in far too many states. Unfortunately, the exploitation and tyranny of low expectations we found at these two providers are an all-too-common result of the segregation of people with disabilities. That is why we at the Department of Justice will continue to work hard to fight this type of discrimination.

Component(s):
Civil Rights Division

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