

COMMUNTEE ON EDUCATION
OF PROPOSED TO SPECIFIC
1. BOSTON/STONING
IN CITY COUNCIL

CLERK

December 26, 2013

Anna Stetson
City Clerk, Providence
25 Dorrance Street
Providence, RI 02903

Re: Birch School Report

REC'D
THE COMMITTEE ON

CLERK

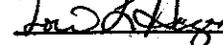
Enclosed, please find a report commissioned by the Providence Public School Department, dated October 28, 2013, in response to the July 18, 2013 Resolution Requesting the School Department to Conduct an Internal Review Relating to the Harold A. Birch Vocational Program and District-Wide Administrative Oversight.

Thank you,


Jeffrey M. Padwa, Esq.
City Solicitor
City of Providence

IN CITY COUNCIL
FEB 20 2014

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

 CLERK
ACTING

Introduction

On April 9, 2013, the Providence Public School Department (PPSD) learned that the sheltered workshop program at the Harold A. Birch Vocational Center was allegedly operating in violation of various state and federal laws.

Mr. Larry Roberti, then Supervisor of the Birch Vocational School's sheltered workshop program, was in charge of a program the United States Department of Justice referred to as "one of the worst cases" it had ever seen. PPSD took action immediately and worked expeditiously to close the workshop. At the same time, the district's commitment and focus was on increasing opportunities for its students with disabilities by facilitating full and equal participation in civic life. PPSD's focus is to provide students with quality educational experiences that integrate them into positive learning environments and prepare them to participate in higher education and/or for employment to achieve their post-secondary goals.

PPSD's sheltered workshop at the Birch Vocational School was closed on April 12, 2013. Since that time, the workshop remains closed and PPSD has begun the process of fully integrating students with disabilities - as is required under the Americans with Disabilities Act.

This report details the history of the sheltered workshop program at the Birch Vocational School, highlighting the shifts in prevailing opinion about best practices for educating students with cognitive disabilities exemplified in federal and state law. Additionally, the report identifies three reviews of the Birch Vocational program conducted by outside agencies, two of which failed to uncover the serious compliance issues at Birch. Furthermore, the report details the factual findings of the agencies that investigated the Birch Vocational program and provides the status of all investigations. Moreover, the report explains PPSD's plan to redesign the Birch Vocational Center. Finally, the report shares the lessons that were learned from this regrettable situation.

History of the Harold A. Birch Vocational Program

The Harold A. Birch Vocational Program was a school for students with disabilities, who ranged in age from fourteen through twenty one. The mission of the Birch Vocational School was to help and educate each student to maximize their learning abilities as well as their employment abilities. According to information received, the Harold A. Birch Vocational School was developed by parents of students with moderate to severe disabilities over forty (40) years ago. The parents' plan was to develop a program which incorporated academics with a federal licensed sheltered workshop.

Students at Birch would spend part of their day in academic instruction and part of the day partaking in Birch's workshop program. This program was designed to allow students to develop and improve their job-related skills and behaviors. Birch Vocational School had agreements with local companies throughout Rhode Island in completion of workshop jobs. This would include small assembly work, carding, sorting, tagging, and packaging. The monies received for these services were supposed to be paid to the students from the Birch workshop bank account so that they were able to participate in community experiences which included banking, shopping, and riding public transportation. Birch students performed work for such companies as Herff Jones, A&H Manufacturing, Training Thru Placement (TTP), Norma Jean Creations and UVex.

For its time, the Birch Vocational Center's sheltered workshop was considered revolutionary and state of the art. The sheltered workshop was created and implemented in the late 1980's, when the prevailing opinion about sheltered workshops was that they were not per se unacceptable. In fact, statistical data compiled during the previous 20 years tends to show that the practice was growing. For example, according to the Department of Labor, the number of sheltered workshops in the United States increased from 85 to about 3000. By 2007, an estimated 136,000 adults with disabilities were employed in sheltered workshops in different states across the country. It is important to note however that while the overall number of sheltered workshop facilities and adults with disabilities employed in sheltered workshops increased, the practice of operating a sheltered workshop in a school system was unique and not reflected in any meaningful way by the increase data.

In 1989, Mr. Larry Roberti was appointed the Birch Vocational School Coordinator and became responsible for implementation of the program and the workshop. In the job description, it is clear that the Supervisor reported to the Director of Special Education and was to serve as an integral part of the Special Education Administrative Team. It is also clear that the Supervisor's authorities were broad. For example, sample duties for the position included, "Responsible for procurement and coordination of all contracts for Workshops as this relates to meeting Federal guidelines and Child Labor Laws (sic)," and "Be in complete charge of implementing all policies and regulations of the system at the Birch Vocational Center and [Occupational Education Program]." A full job description is attached.

Over the last two decades, an internal debate arose as to the continued utility of sheltered workshops, precipitated by the United States Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999). In *Olmstead*, the court noted, among other things, that "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life." *Id.* at 601. Additionally, "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." *Id.* As a result of Olmstead and similar decisions involving individuals with disabilities, DOJ began aggressively investigating instances of alleged Americans with Disabilities Act (ADA) violations and refocusing its efforts on bringing actions against public entities who failed to properly integrate individuals with disabilities with increasing levels of success.

During the 1990's, when the prevailing opinion of integration of individuals with disabilities became the standard, Mr. Roberti's school and sheltered workshop program was removed from the authority of the special education department and placed under the supervision of the executive director of high schools, apparently due to a personality conflict between Mr. Roberti and the then Director of Special Education. This allowed Birch to be supervised by an administrator not certified in special education and oversight of the specialized program was minimal. More importantly, the sheltered workshop program went virtually unchanged for many years, due primarily to the fact that Mr. Roberti was adamant about keeping the workshop and keeping the program in the same capacity as it was when it started 40 years ago. In his view, the workshop was to remain the sole source of transition training with little to no administration of transition assessments and services based on student interest and capabilities. Any attempts to alter the program was frowned upon and rejected by Mr. Roberti who, in the absence of any oversight, was able to administer his program as he saw fit.

Several extra-curricular programs were developed at Birch Vocational School without a clear purpose or alignment to individualized education program (IEP) development or transition services. These extra-curricular programs were established to provide recreation to the students and are described below:

- A Saturday Program was provided to approximately 10 to 20 Birch students which ran from October to June. The Saturday Program did not involve any teachers in the program and just utilized teacher assistants. There was not a clear purpose to this program. It was stated that it was utilized to provide extra-curricular activities and respite to the students and families.
- A recreation program was also provided during the summer months for some of the students of Birch Vocational. The instruction in the Recreation Program was not aligned to curriculum standards or IEP development. Even though the District offered extended school year programming, these students were not given access based on their disability category, which is not in alignment with the Individuals with Disabilities Education Act (IDEA). The students would attend the summer program and frequently be allowed to go on several field trips. The field trips did not seem to have a connection to IEP development or transition programming.

On March 28, 2013, the supervision of Birch Vocational School was placed under the supervision of the Special Education Director, Lisa Vargas-Sinapi. Immediately, several red flags listed below were identified and documented by Mrs. Vargas-Sinapi:

- Class lists were never updated in the student information system, therefore student information was inaccurate;
- Schedules and report cards were not recorded in the student information system;
- Mr. Roberti was unaware of the three year re-evaluation process and students at Birch Vocational were infrequently re-evaluated;
- IEPs were never finalized in PPSD's web-based system therefore several IEPs were lost;
- IEPs were never reviewed by Mr. Roberti for alignment with State and Federal regulations therefore IEPs were not written with measureable goals, appropriate present levels of functioning or with current assessment data;
- Appropriate transition assessments and services were not conducted and written into IEPs;
- The only type of transition services provided to the students was the workshop;
- There was little to no expectation that students at Birch could find or become employed;
- The technology at the Birch School was antiquated and was not a priority for instruction at the school;
- Teachers did not have access to a curriculum to provide instruction to students;
- The students of Birch Vocational were not integrated with non-disabled peers.
- Little to no professional development and training was provided to the faculty and staff regarding transition services, assessments, or IEP development.

Upon discovery, the Special Education Director reported this to the Chief Academic Officer and began to meet regularly with the Supervisor of Birch Vocational School, Mr. Roberti, to provide training and support. Upon recommendation of the Special Education Director, Superintendent Lusi closed the Birch workshop on April 12, 2013. Thereafter, Mr. Roberti kept pressing and insisting for the workshop to be reopened. Furthermore, Mr. Roberti was passive about receiving the training from the Special Education Director and was absent frequently throughout this time. The Special Education Director reviewed on several occasions the findings from the United States Department of Justice (DOJ) with Mr. Roberti, which resulted in Mr. Roberti remarking that it was clearly a "misunderstanding." Additionally, Mr. Roberti kept insisting on the reopening of the workshop and stated to the Director that he would go over her head to get this reopened and would continue to press.

Simultaneously, as the Providence Public School Department learned of other issues at Birch, as well as the alleged violations of the Americans with Disabilities Act that the DOJ was investigating, the Superintendent began the process of removing Mr. Roberti as supervisor of the Birch Vocational School. This included recommending that his contract as administrator be non-

renewed, a process that PPSD was contractually obligated to follow. After the Providence School Board failed to approve the non-renewal of Mr. Roberti's contract, Superintendent Lusi placed him on administrative leave on June 3, 2013 and continued to pursue all alternatives including termination for cause. Mr. Roberti retired shortly thereafter.

Audits and Program Reviews of the Special Education Department including Birch Vocational School

Over the past five years, there have been three audits of the Special Education Department in which Birch Vocational School was reviewed. Two audits were conducted by the Rhode Island Department of Education (RIDE) and one audit was conducted by the Council of Great City Schools (CGCS).

RIDE conducted School Support System Monitoring of Special Education for Providence in January 2007 and in January 2012. The School Support System integrates multiple sources of information in order to develop a support plan to the District that is directed at increasing student performance and is founded on proven practice. The School Support System is required to be conducted every five years by RIDE to evaluate the quality and effectiveness of special education and the extent to which the district meets special education laws and regulations. As a result, the process delineates the District's strengths and needs with citing direct compliance issues and performance results.

In January 2007, the School Support Monitoring by RIDE did not cite Birch Vocational School with any compliance issues. However, RIDE stated that Birch Vocational Program operates as a school within Mt. Pleasant High School with few integrated opportunities with the general education student population. The response from the District was for the Special Education Supervisor at Birch to continue to work with the Executive Director of High Schools to examine expanding the integration of Birch students into Mt. Pleasant. The report goes on to state that in the 2007 – 2008 school year, Birch School had expanded its integration with Mt. Pleasant High School. The report further states that Birch students attended a Saturday program with Mt. Pleasant students and also participated in work experience programs within the community. The report also states that the Birch students have opportunities for integration per their IEP which may include itinerant subjects such as gym and music, etc. The report ends with the statement that Mt. Pleasant students also provide support to the Birch students by participating in theatrical plays together which are performed twice a year. Please note, when the Special Education Director, Lisa Vargas-Sinapi, took over responsibility of Birch School in March 2013, no documented evidence of this type of integration was seen.

In January 2012, the School Support Monitoring by RIDE again did not cite Birch Vocational School with any compliance items. The report stated that Birch Vocational Program

is a school within a school at Mt Pleasant High School complex. The program provides students with an individualized education program aligned with the Rhode Island Grade Span Expectations (RIGSE) and Alternate Assessment Grade Span Expectations (AAGSE). The report further states the program also provides students with functional vocational and career related skills. The review documents the staffing numbers for teachers, teacher assistants and related service providers. The report describes the strengths of the program to be an individualized curriculum based on the standards and a collaborative and supportive staff in a small community like environment. The report further refers to a backpack and gardening program that is designed to provide functional vocational related skills and community experiences. The report also states that there existed community based vocational experiences and community partnerships with Wal-Mart, Forte Jewelers, Training thru Placement and the Fogarty School Sliver Springs Annex.

The challenges cited were a lack of opportunities for students to access typical peers and a limited vocational workshop and community based sites. The report finally states that while there are currently no regulatory related problems concerning space for the program, increased enrollment has made space a premium and will need to be considered prior to expanding the program beyond its' current enrollment. Please note, upon the Special Education Director taking responsibility of Birch Vocational in March 2013, no integration or community opportunities were observed, seen or implemented.

In the intervening period, a third review was conducted by the Council of Great City Schools (CGCS), in April 2011. CGCS's audit, done at the district's request, was to provide feedback and recommendations to the Office of Special Education that would help to create and provide effective and quality programming to support students with disabilities and students at risk. This review is written to provide feedback to the District in a way that would assist in developing a plan to improve outcomes for students with disabilities and to build capacity of the District to educate Providence students in the least restrictive environment. The audit and its recommendations were reviewed with the Providence School Board on April 23, 2012. The review was mainly favorable regarding the special education programming and services and provided 17 recommendations for improvement.

The CGCS report as it pertains to Birch Vocational School stated that all students having intellectual disability at the secondary level attend Birch Vocational Center, "a well-staffed school for students with disabilities". The CGCS interviewed Mr. Roberti as part their investigation for this report. CGCS reported that concerns were evident regarding the provision of instruction and transitional activities and services for students, half of whom reportedly participated in regular statewide assessment. The concerns included the following:

- access to curriculum at a very low level;

- no expectations that students graduate with a regular diploma;
- the fact that only one student takes public transportation to school;
- students have access only to a sheltered workshop experience;
- an attitude that immunizations required for hospital and medical center worksites would be harmful to students;
- limited interaction with the community;
- and finally, that there appeared to be no real desire to change the situation.

The CGCS recommended for the District to develop a district wide, comprehensive, and coordinated vision for transition services. CGCS proceeded to state that PPSD must provide a research-based system of transition services and activities, review current activities to determine the extent to which they align with the 16 evidence-based predictors of post-school employment, and success in independent living, found in the correlational study published by the National Secondary Transition Technical Assistance Center and the National Center for Workforce Development website.

The audit further recommended that the District ensure that Birch Vocational operates consistently with research based practices. As part of the concerns above, and with the involvement of Birch parents and staff, the CGSC also stated that PPSD should conduct a comprehensive analysis of the Birch Vocational Center to determine the extent to which the program is aligned with accepted research sources. Also, the report recommended identifying any programmatic components that required change, and developing a cost-neutral implementation plan that included an aggressive time frame.

Finally, the CGCS report recommended expanding community based supportive work and employment by developing a working group of diverse stakeholders (including Birch staff) to review district practices in community-based work and employment and establish measurable standards for school-based practices at every high school. For example, engage and educate students/parents about the benefits of work experiences and how any payment for work may (or may not) impact federal benefits.

All recommendations of all three audits were reviewed with special education staff, administrators and special educators and an implementation plan is in place to improve outcomes for students with disabilities and to build capacity of the district to educate students with disabilities. It is important to note that, while the CGSC did identify areas of need at the Birch Vocational School, the district also received a CGSC audit of the English Language Learner (ELL) Department simultaneously. This report contained 79 recommendations and was decidedly not positive. While PPSD has worked to implement the recommendations of both reports, improving services to ELLs was identified as the highest priority need and took the bulk of the District's resources and attention.

Factual Findings of State and Federal Agencies Investigating the Sheltered Workshop at Birch Vocational

In 2013, five different federal and state agencies launched investigations into the sheltered workshop operated at Birch Vocational. Their primary interest in Birch stemmed primarily from the duties imposed upon PPSD under the ADA and the Fair Labor Standards Act (FLSA). This report highlights some of the most significant findings of fact that resulted from the investigations conducted by the various agencies.

A. United States Department of Justice Investigation

On January 14, 2013, the Department of Justice (DOJ) notified the State of Rhode Island that they planned on launching an investigation into “whether the State’s reliance on day activity services provided in facility-based settings, including sheltered workshops and day programs, violated Title II of the ADA.” Under Title II of the Americans with Disabilities Act (ADA), the City is charged with ensuring that citizens with disabilities can live integrated lives. This includes ending the practice of segregation of persons with disabilities and involves making serious efforts to ensure that students with disabilities who can and want to access services to help them successfully transition into integrated adult lives can do so. Any effort on the part of a federally funded institution to impede this mission is legally impermissible and repugnant to the clear and comprehensive national mandate of integration.

DOJ’s inquiry into the Birch Vocational sheltered workshop stemmed from its perceived link to a similar program, Training Thru Placement (TTP), which operated a segregated sheltered workshop. Sheltered workshops are facility-based day programs attended by adults with disabilities as an alternative to working in the open labor market. Work is the main focus of sheltered workshops, with a preference for relatively simple work activities such as assembling, packing, woodworking, manufacturing, servicing, or sewing. In addition, sheltered workshops often offer alternative activities including educational programs and leisure activities.

Work in sheltered workshops has different meanings ranging from occupational therapy to actual source of income. The differences in the meanings of work originate from the goals of sheltered workshops, which may range from long-term custody, rehabilitation geared toward transition into the open labor market, or long-term employment. Similarly, the status of adults with disabilities attending sheltered workshops may range from “patients” under long-term custody, to trainees preparing for individual employment, to actual workers.

Even when work is the main focus of sheltered workshops, the work environment tends to be different from the one in mainstream businesses. For instance, in sheltered workshops the

emphasis is on choosing work activities that fit with people's skills whereas in the open labor market the emphasis is on matching people's skills to the production needs. In addition, hierarchy in sheltered workshops is not based on contractual parameters like in mainstream businesses. Instead, it is shaped by the status of a person as either a consumer or a staff member who supervises consumers.

In Rhode Island, students with disabilities who were transitioning should have had the opportunity to choose from a variety of programs as adults, of which sheltered workshops were a small component. In addition, these students should have been offered opportunities to participate in facility-based day programs, integrated supported employment, integrated day services, or pursue higher education. Instead, DOJ concluded that the Birch Vocational Center's sheltered workshop operated as a direct pipeline of students with disabilities to the TTP program and significantly limited students' choices. By doing so, according to DOJ, the City placed such students at "serious risk" of unnecessary segregation.

On April 9, 2013, DOJ held a conference call with PPSD personnel, in which they in concluded that Mr. Roberti's oversight of the sheltered workshop at Birch could be described as symbolizing his artificially low expectations and assumptions about the abilities of many of the students at Birch. Because he believed the students were unemployable, Mr. Roberti instructed the staff at Birch to have them engage in menial tasks, often without paying them. For example, students working in the workshop would be asked to place plastic buttons in bags or sort them by color and place them in buckets "only to have their work dumped back into a pile at the end of the period or day." Meanwhile, those students who were deemed capable would have their work used to fulfill the contractual obligations the workshop had with its vendors. DOJ's expert concluded that the students who were not compensated for their work in the workshop "were not so severely disabled as to be incapable of receiving integrated transitions and supported employment services, and they demonstrated very few differences in ability from the students who were paid subminimum wages."

A natural outcome that flowed from his misguided view of student ability was the lack of sufficient opportunities to participate in integrated settings. According to DOJ, the students at Birch had virtually no choice but to participate in the sheltered workshop. This was true even in cases where students had expressed a desire to receive integrated services and experiences. When students did express preferences to have "real" job experiences, they were simply told to continue working because the production deadlines needed to be met. This "mandate," imposed by Mr. Roberti and the workshop staff, "severely limited Birch students' opportunity to be successfully matched with integrated work placements that are better suited to their particular preferences, interests, and skills."

Lastly, DOJ concluded that PPSD failed to provide timely transition services to students at Birch that would adequately prepare them to succeed in post-secondary integrated settings. PPSD did not offer the same opportunities for internships and career learning experiences that are important to develop work related skills and that were available to students at Mount Pleasant. Instead, students at Birch learned work tasks in the workshop that only prepared them to work in segregated sheltered workshop facilities that mirror the workshop at Birch. There were no “employment-related transitional assessments, including situational and community-based vocational assessments, necessary to transition into work in integrated settings.” The results were that students could only do limited amounts of work and in very limited settings. In fact, between 2009 and 2013, only 1.7% of the students at Birch received the kinds of assessments required by the ADA, leaving all of them without any accurate means of determining their employment-related skills and abilities.

On April 12, 2013, three days after learning of the alleged violations at Birch, PPSD permanently closed the sheltered workshop. On June 7, 2013, DOJ issued a detailed letter (attached hereto), at the City’s request, noting the violations that occurred and setting forth the remedial action the City needed to take to come into compliance with the ADA. Additionally, the City entered into a settlement agreement with the DOJ. Among other things, the settlement agreement calls for the City to begin the process of ensuring all appropriate transitional services are provided and actively preparing students for work in integrated work environments. Birch Vocational has since discontinued the sheltered workshop program and there are no plans to reopen it.

B. United States Department of Labor Investigation

On May 17, 2013, the United States Department of Labor (DOL) informed the Providence School Department that it would be launching an investigation relative to compliance with the requirements of the Fair Labor Standards Act (FLSA). In particular, DOL was interested in whether the special conditions that allowed the Birch Vocational Program to pay students with disabilities a special minimum wage rate had been met. Under Section 14 (c) of the FLSA, in order to receive a certificate that authorizes the payment of a special or sub-minimum wage, employers must provide certain written assurances documenting that, at a minimum, hourly wages paid to individuals with disabilities are reviewed at periodic intervals (recommended every six months), and that all wages are adjusted at periodic intervals (recommended every year).

The application process for acquiring a special minimum wage rate certificate is a fairly arduous one and requires making a number of representations supported by documentation. Among the most important requirements is that the applicant for a sub minimum wage certificate is required to certify that a prevailing wage survey was conducted. The prevailing wage for a

particular job performed by a worker with a disability who receives a special minimum wage is the wage paid experienced workers who do not have disabilities performing essentially the same type of work in the vicinity. An employer paying a special minimum wage must be able to demonstrate that the prevailing wage rate used to determine a commensurate wage was objectively determined. Normally, prevailing wage rates are based on the results of surveys conducted by the employer. The prevailing wage is not an entry-level wage or a training wage, but the wage rate paid experienced employees after completion of any training or probationary periods.

To conduct a survey, the employer must obtain wage information for each job classification being performed by workers to be paid a special minimum wage. A brief job description should be prepared that defines the specific job duties, responsibilities and tasks; identifies the types of equipment and supplies used to perform the tasks; lists the types of skills, education or experience levels required; and indicates the location, and days and times of the week the work will be performed. The employer should obtain wage data from comparable businesses in the vicinity that primarily employ workers who do not have disabilities performing the same work and utilizing similar methods and equipment as used by the worker with a disability. A comparable business is one that either employs a similar number of employees or competes for contracts of a similar size and nature.

The prevailing wage information should be solicited, preferably in writing, and the employer conducting the survey should record the following information regarding each prevailing wage survey contact:

- (1) date of contact;
- (2) name, address and phone number of firm contacted;
- (3) individuals contacted within each firm and the title of each individual;
- (4) the wage rate information provided and the basis for concluding that each rate submitted was not based upon an entry level position;
- (5) and a brief description of work for which wage information was collected.

After contacting a sufficient number of comparable firms, the employer must average the wage information provided to determine the prevailing wage for a particular job. The employer may use either a weighted or simple average so long as he or she is consistent.

Because of the nature of the work conducted in the sheltered workshop at Birch, accurate calculation of a piece rate was essential to determining how to compensate the students at Birch. For example, an existing piece rate is \$0.065, based on a prevailing wage of \$6.50 per hour and time studies which showed that workers without disabilities (the standard setters) were able to produce 100 widgets in a "fifty-minute" hour, allowing 10 minutes per hour for personal time

and fatigue (\$6.50 divided by 100 = \$0.065). Without making this determination, it would be impossible to accurately determine how much to compensate each worker for the work they performed.

Based on their examination of the documents PPSD provided, DOL determined that the sheltered workshop at Birch committed “willful violations” of Section 14 (c) of FLSA. Specifically, they found that there was a lack of documentation to support virtually all of the workshop’s activity. According to DOL, “[r]ecords of hours worked and number of pieces produced by individual [students] were not maintained.” Additionally, “workers with a disability were paid an arbitrary day rate instead of a proper commensurate wage as required by Section 14 (c) of the FLSA.” Moreover, “prevailing wage surveys were not conducted properly or timely, resulting in improper piece rate calculations...time studies were not conducted properly, if at all.” Finally, DOL determined that the “average hourly earnings of workers with disabilities on Birch Vocational’s application for a Section 14 (c) certificate were inaccurate. Specifically, the application indicated consumers were paid wages from \$2.88 to \$10.91, while in actuality consumers were paid wage rates of \$1.00, \$1.01, \$2.00, or \$2.01 per day.” A copy of the factual findings of DOL is attached and incorporated herein.

As a result of this investigation, DOL retroactively revoked the special minimum wage rate certificate that was issued to Birch Vocational in 2010 and ordered that the City pay restitution to the students for back wages. In their view, given the lack of accurate documentation, restitution was paying each individual student who worked in the workshop federal minimum wage (\$7.25) for every hour they worked in the workshop. After being given credit for what was actually paid to the students, PPSD was ordered to pay a total of \$250,859.81 to 60 students. Each student’s back wages, ranging from \$153.85 to \$5,510.68 over a three year period, is to be paid into a special needs trust created by PPSD that is to be administered by a third party.

C. Ongoing Investigations

In addition to the DOJ and DOL investigations, it has come to our attention that the Rhode Island Disability Law Center (RIDLC), the Office of the Inspector General and the Federal Bureau of Investigation (FBI) have launched preliminary investigations into the sheltered workshop at Birch. RIDLC is a federally mandated Protection and Advocacy System (P&A) for the State of Rhode Island. As such, it is their responsibility to advocate for and protect the rights of individuals with disabilities. RIDLC’s investigatory authority under federal law includes monitoring compliance of schools and other facilities with the rights of individuals with disabilities and investigating where there is probable cause to believe incidents of abuse and neglect in schools have occurred.

Likewise, the Office of the Inspector General in the United States Department of Education and the FBI have launched investigations into the alleged misuse of Title I funds at Birch. Under Title I, Part A of the Elementary and Secondary Education Act, federal funds are allocated to provide financial assistance to local educational agencies (LEAs) and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards.

Because these investigations are in their infancy and remain unresolved, this report does not deal with them in detail. That said, we are continuing to cooperate with the agencies and will provide updates when appropriate.

The Re-Design Plan for Birch Vocational School

Description of the Re-Design Model

The Providence School Department fully believes that Birch Vocational School can be transformed and redesigned to align with best practices and afford our students the best services to achieve to their fullest potential and achieve their post-secondary goals. Providence School Department's re-design plan includes four core areas to enhance our programming and services:

- A. Integration and Inclusion
- B. Transition Programming and Services
- C. Curriculum and Instruction
- D. Parent and Family Collaboration

The following outlines Providence School's action plan, goals and training in moving forward to redesign Birch Vocational School:

Vision of the Re-Design at Birch Vocational School to become Mount Pleasant High School Birch Academy

The vision for the Mt Pleasant Birch Academy is to prepare students to become responsible, skilled and effective adults in society by providing rigorous educational opportunities with a direct focus on instruction, transition and career skills, activities and plans for students to achieve their post-secondary goals.

Re-Design Committee

In order to achieve the vision and goals for the re-design of Mt. Pleasant Birch Academy, a task force has been established which includes administrators, teachers, teacher assistants, state agencies and parents. The task force's charge is to develop a detailed plan to enable the students at Mt. Pleasant Birch Academy to be provided with the tools, instruction and experiences to improve student achievement and outcomes. The re-design committee's first meeting took place July 30, 2013 in which sub committees were formed, goals and expectations set.

Key Features of Re-Design:

The Mt. Pleasant Birch Academy has identified the following major components for successful implementation and achievement for students:

- A robust, engaging curriculum that aligns with the alternate grade span standards and transition standards and can be differentiated to meet student needs;
- Integration of students with non-disabled peers in all aspects of the school day as appropriate for each individual student;
- Instruction that explores transition services and activities to provide students the skills to meet their post-secondary goals;
- An assessment system that drives IEP development and transition planning;
- Dynamic interactions, experiences and exchanges with community partners, businesses and organizations to enhance learning and skills;
- A focus on transition skills and experiences that are vital for success throughout and after high school;
- Faculty that brings interests and perspectives into school experiences and instruction;
- Technical assistance from the Rhode Island Department of Education (RIDE) that will assist in guiding re-design and goals for the program.
- Collaboration with state agencies to begin the career planning process and achieve student goals.

A. Integration and Inclusion of Birch Vocational into the Mt. Pleasant High School Community

The goal for integration and inclusion of Birch Vocational is that the students of the Mt. Pleasant Birch Academy become an authentic part of the Mount Pleasant High School community. This will enable students with disabilities to participate in classes, extracurricular activities, learn with and befriend their peers.

Action Plan for Integration and Inclusion

Plans are underway to fully integrate Birch Vocational students and faculty into the Mt. Pleasant High School Community. Please note, that RIDE's accountability system has always incorporated the assessment results of the Birch student population into Mount Pleasant's scores, even though the Mount Pleasant administration had no direct supervision of the Birch Program. Our plan is to have the Birch Vocational School become The Mount Pleasant High School Birch Academy. The Mount Pleasant High School Birch Academy will be a part of Mount Pleasant High School that provides students with engaging and robust instruction and transition services, enabling every student to achieve their post-secondary goals. This will allow Mt. Pleasant High School to receive accountability for Birch student results as well as be provided with the supervision of Birch staff, instruction and programming.

The Mt. Pleasant High School Birch Academy will be under the direct supervision of the Principal of Mt. Pleasant High School and his administrative team. Included in this administrative team, is a newly appointed Coordinator of Student Services who works directly under the Principal and collaboratively with the Special Education Director. The Coordinator of Student Services has experience and certification in school leadership, special education and transition services in order to meet the requirements of the DOJ agreement and to improve services at Mt. Pleasant Birch Academy for integrated services and student programming. The Providence School Department on August 27, 2013, appointed Ms. Linda Butera Noble as the Coordinator of Student Services at Mt. Pleasant High School.

The Director of Special Education and Principal of Mt. Pleasant have worked with the PPSD Chief Operating Officer to review the physical space of Mount Pleasant High School and the wing which previously included Birch Vocational School. A relocation of former Birch classrooms into Mt. Pleasant and Mt. Pleasant classrooms into the Birch wing is underway to ensure all classrooms are fully integrated and provide safe and appropriate classroom environments. The relocation of classrooms will provide greater inclusion to ensure all students have access to seamless integration with non-disabled peers.

The Principal and guidance staff has worked and continue to work to schedule students with disabilities to be included and integrated in as many classes as appropriate across the school day. Teachers have provided input and worked closely with guidance staff to ensure schedules were in the place for the first day of the 2013/2014 school year. Students currently are scheduled as appropriate for integrated gym, art and health to start. Four of the students will additionally be part of the Principal's advisory group which takes place once a week and works to review the needs of the school and plan school events. Integrated field trips are being planned through the Art Department and integration into Spanish classes is being reviewed. The goal is to integrate

Birch students into as many classes and after school programs as appropriate taking into account student interest and needs.

Inclusion is a philosophy of education based on the belief in every person's inherent right to fully participate in society. Inclusion implies acceptance of differences. It makes room for the person who would otherwise be excluded from the educational experiences that are fundamental to every student's development.

The plan for the Mt. Pleasant Birch Academy is to seamlessly include each of our students into the community of Mt. Pleasant to ensure all are part of the school's community and share the same experiences, instruction and friendships.

When inclusion is effectively implemented, research has demonstrated academic and social benefits for all students: both those who have special needs as well as typical students. Friendships develop, nondisabled students are more appreciative of differences and students with disabilities are more motivated. True acceptance of diversity ultimately develops within the school environment and is then carried into the home, workplace and community. This is the goal for the Mt. Pleasant Birch Academy.

In order to have successful inclusive programming for all students at Mt. Pleasant, special education teachers are currently being trained to implement the aspects of Universal Design for Learning (UDL), which is taking place during the Fall of 2013. UDL will assist to overcome barriers and offer a variety of approaches which reach a broader range of students and improve learning.

Training regarding the inclusion of the Birch School into Mt. Pleasant will be provided to all teachers and staff. This training must take place to ensure the Mt. Pleasant community is ready and able to handle this integration with the knowledge and skills necessary to achieve success. The Principal of Mt. Pleasant is working with the assistance of the Special Education Director to coordinate this training to begin this November.

B. Transition Services and Programming

The goal of transition planning at the Mt Pleasant Birch Academy is to ensure that students with disabilities gain the skills and access the services needed to be successful in the "real world" and achieve their post-secondary goals.

Action Plan for Transition Services and Programming

Federal and state law requires school districts to include a discussion of transition services in the development of the student's Individual Education Program (IEP) at the annual admission, review, and dismissal meeting. By age 14, each student's IEP must include a statement of needed transition services to include instruction, related services, community experiences, employment and other post school adult living objectives, and if appropriate, acquisition of daily living skills and a functional vocational evaluation.

Transition services at the Mount Pleasant Birch Academy need to be revamped and aggressively put in place in order to align with best practices, IDEA, and the requirements of the Department of Justice agreement. Providence's plan to provide the necessary transition service and programming to our students includes five key areas:

- Supported Employment and Transition Services with identification of Vocational Sites;
- Career and Employment Planning Teams;
- Vocational and Transition Assessments;
- Collaboration with State Agencies;
- Staffing and Leadership.

Supported Employment and Transition Services with identification of Vocational Sites

Supported employment services are employment services provided in the amount, duration, and intensity that allow students with cognitive disabilities to work the maximum number of hours consistent with their abilities in an integrated employment setting. Supported employment services are transitional services and supports which include: community experiences, development of post- secondary goals, integrated work-based learning experiences such as job shadowing, job development, training in self-advocacy, self-determination and conflict resolution skills among others.

The DOJ agreement clearly states that all students at Birch shall have a meaningful opportunity to experience at least two trial work experiences, where each trial work experience is approximately 60 days in duration, prior to exit from Birch in an individualized, integrated employment setting with supervision, appropriate services and supports. Therefore it is imperative that all staffing is in place and appropriate training and professional development are provided to enable us to provide the necessary supports and services.

PPSD's transition consultant and Special Education Director worked during the 2013 summer season to locate an array of vocational sites – which are needed to provide supportive employment services. Further development and staffing is needed in order to provide appropriate supportive employment services and sites for students.

An extensive amount of professional development and training is needed for all Birch Academy teachers and staff in order to implement appropriate transition services. Birch staff and teachers have never received appropriate professional development in this area and lack the necessary training to implement supportive employment and transition services. Professional development began on August 19, 2013 and will continue throughout the school year with the assistance of consultants and experts in the field. Topics for training include the implementation and analysis of transition assessments, developing transition planning and services in the IEP, career development planning, and coordination and planning with state agencies among others.

Individualized Career Development Plans

In collaboration with State agencies (Office of Rehabilitation Services (ORS) and Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (BHDDH)), PPSD is in the process of developing clear procedures for creating career development plans for every student in the Birch Academy.. The career development plan is a plan that identifies the student's employment goals and objectives, the services and supports needed to achieve those goals. The plan is a collaborative effort with State partners to support each student by assigning responsible parties for specific tasks and identifying and problem solving employment obstacles. In October, the career development teams are in place and the process has begun at Mt. Pleasant High School which is a requirement of the Interim Settlement Agreement.

Vocational and Transition Assessments

A "vocational assessment" is an assessment administered to provide employment-related information essential to the development of, or revision of, an individual's career planning document, including the Individualized Education Plan ("IEP"). The primary purpose of all vocational assessments is to determine an individual's interests, strengths, and abilities, in order to identify a suitable match between the person and an integrated employment setting. Furthermore, a "situational assessment" is a vocational assessment that is administered on-site in integrated employment settings, where individuals are evaluated in the performance of work activities that are typical to the setting where the assessment is administered.

PPSD believes that these assessments are the foundation of transition services for our students with disabilities. The Providence School Department has purchased an array of vocational assessments designed to meet the needs of students with cognitive disabilities. The Providence School Department is in the process of providing extensive training in this area in order for teachers and staff to be able to administer and implement such assessments. Training, conducted by ORS vendors and other rehab counselors, began at the end of August 2013 and will continue throughout the school year to ensure that staff is trained and are able to administer such assessments.

Collaboration with State Agencies

Collaboration with state agencies is necessary to providing the transition services, programming, and information to students and their families. PPSD is developing and expanding collaboration and communication with RIDE, ORS and BHDDH in order to reach the goals and expectations set forth. PPSD communicates with the state agencies weekly to review all cases, set priorities, and create action plans moving forward.

The Special Education Director and transition consultant additionally meet monthly with RIDE to monitor the implementation of the plans and progress with programming and services, and to receive input and technical assistance to ensure compliance with the DoJ agreement.

Staffing and Leadership

In order to reach the transition goals set forth above several staffing needs are required in the areas of leadership, vocational and job coaching support, and highly qualified teachers. Additionally, the Office of Special Education has created a Division of Transition to provide direct oversight, leadership and direction across the District to support the systemic implementation of transition planning and services. In order for transition services to align with best practices and achieve success, a District Transition Supervisor is necessary to provide a systemic and comprehensive process across the District to ensure all students with disabilities receive the necessary skills, career planning and leave high school able to achieve their post-secondary goals. This position will support the transition consultant provided by RIDE and provide the necessary support to enable PPSD to meet the requirements of the Department of Justice agreement and have full supervision of all transition activities across the District. The position is currently posted and scheduled to be hired by the end of October. This person will lead our Division of Transition Services as part of the Special Education Office to ensure transition planning and services are appropriately provided across the District to ensure our students reach their post-secondary goals.

Vocational and Job Coaching Support

A vocational rehabilitation counselor position is needed to oversee a variety of professional assignments and to provide vocational rehabilitation guidance, assessments and rehabilitation planning to students with disabilities. The vocational counselor will provide counseling and guidance to students regarding vocational choices and analyze and interpret relevant information to determine interest, motivation and achievement. The vocational

counselor also will reach out to the community to support the identification of vocational sites to provide such services. Currently the District has transformed the Workshop Liaison position previously assigned to Birch to a vocational counselor position which is currently posted for hire. The position expected to be filled by the end of November.

Job Coaches

A redesign of the Teacher Assistants' job responsibilities for Birch Academy has taken place with the collaboration of Local 1033. The newly designed Community Transition Assistant Liaison position will provide the program with highly skilled teacher assistants who will receive training in job coaching strategies. This will enable Community Transition Assistant Liaisons to provide assistance to students during supportive employment services and job development training in the community. All ten positions have recently been filled and training has begun in August.

Highly Qualified Teachers

A review of teacher certification is underway by the Human Resources Department to ensure that all teachers in the Birch Academy are highly qualified to provide the necessary instruction and training to students. Teachers at the Birch Vocational School were previously not provided with the necessary training to provide appropriate assessments, instruction and transition skills that would enable our students to become successfully employed adults, therefore intensive professional development and monitoring is essential to enable Providence to achieve these goals. In August, scheduled professional development and training for all staff has begun which includes weekly common planning time as well as additional after school trainings.

C. Curriculum and Instruction

The goal for curriculum and instruction is to improve the implementation of rigorous curriculum and instruction to meet the diverse needs of students with significant cognitive disabilities to achieve and progress.

Curriculum and instruction at the Mount Pleasant Birch Academy needs to be revamped and aggressively provided in order to align with best practices and IDEA. Providence's plan to provide the necessary curriculum alignment and instruction focuses on the following areas:

- Curriculum and Instruction;
- Individualized Education Program Development;
- Extended School Year Services;

- Action Plan for Curriculum and Instruction.

Curriculum and Instruction

All students, including students with significant cognitive disabilities, deserve and have a right to a quality educational experience. This right includes, to the maximum extent possible, the opportunity to be involved in and meet the same challenging expectations that have been established for all students.

The curriculum and learning instruction must include skills in the areas of reading, writing, listening, speaking, mathematics, and problem solving aligned to the AAGSEs. This instruction must reflect the academic and vocational subject areas included in the student's IEP and must be aligned to the student's course of study. Curriculum modification and accommodations should be provided based on the needs of the individual student.

In order to achieve the goals, the Providence School Department has purchased the Unique Learning System which is the only online, standards based curriculum specifically designed for special learners. The system includes monthly instructional thematic units of study with downloadable materials that teachers can readily implement in the classroom. All materials are created using Symbol Stix graphics. The lesson plans define three levels of differentiated tasks to accommodate the diversity of learners with significant disabilities. Professional development was provided over the summer of 2013 to teachers at the Mt. Pleasant Birch Academy. Implementation of this curriculum will be monitored by the Special Education Director, Student Services Coordinator at Birch and Transition Coordinator. New technology computers and software have been purchased for the staff at Birch Academy by the Special Education Director in order to implement this curriculum and to enable students' appropriate access.

Also in addition to Unique Learning Curriculum, the re-design team is looking to implement a health, daily living skills, and a social skills curriculum. This is currently under development with the assistance of Mount Pleasant's school nurse and the school psychologist. Plans for implementation are being designed at this time.

Individualized Education Programming Development

Each student with a disability under the IDEA must have an Individualized Education Program designed with applicable procedural safeguards to guide the appropriate provision of a free appropriate public education (FAPE) in the least restrictive environment (LRE).

The IEP serves as –

- An educational blueprint that describes the student's skills and needs, outlines a plan of specially designed instruction to take advantage of those skills and respond to those needs, and establishes educational goals to be achieved during the next year;
- A tool between the family and school to facilitate communication regarding the student's educational needs and the design of specially designed instruction and related services that will enable the student to benefit from instruction; and
- The documentation of resources that the District has committed to provide the student.

The IEP team designs services for each student based on his/her unique needs and not on the category of the student's disability. All IEPs are to be developed using the district's web-based IEP system.

IEP development training is greatly needed for the faculty and staff at Birch Academy to create IEPs that support student learning and determine the skills needed for students to achieve. Teachers and staff have identified this need and realize that IEP development and several special education processes were never emphasized or reviewed previously.

The Special Education Department has planned several professional development opportunities throughout early Fall to provide staff with this necessary training to align IEPs and assessment reviews with state and federal regulations to meet student need.

Extended School Year

Under IDEA Regulations, extended school year services must be provided if a child's IEP team determines, on an individual basis, in accordance that the services are necessary for the provision of free appropriate public education to the child.

Extended School Year (ESY) services for students at the Mt. Pleasant Birch Academy must be reviewed yearly for each student. ESY programming must be expanded to enable each student at Mt. Pleasant to be provided with the ESY services identified in each student's IEP.

The plan is to provide extensive professional development in this area to ensure IEP teams are well trained to make effective decisions concerning ESY services and to identify goals for this programming. Previously a recreation program at Birch School was implemented which was not aligned to any identified academic or transition goals for students. Furthermore, student's IEPs were not reviewed in accordance with IDEA and decisions were based on a disability category instead of a review of data.

A re-design to provide summer programming aligned with state and federal regulations to meet the identified academic and transition ESY goals will be implemented for the summer of 2014. The goal is to train teachers to ensure all students' IEPs are reviewed for ESY services in accordance with Section IV of Providence's Special Education Procedural Manual.

D. Parent & Family Collaboration

Providence Public Schools recognizes that children learn best when parents and family are engaged in a child's education. A significant body of research suggests that parent participation in schools improves the academics of students; moreover, parents with experience regarding school programming and services improve positive results in students' learning, growth and development. . The Special Education Director works closely with the parent leadership team of the Local Advisory Committee for Special Education and has kept the leadership team abreast of all planning regarding Birch Academy.

Therefore, it is the Special Education Department's Plan to provide parents with several trainings including but not limited to:

- Transition planning services;
- Graduation requirements;
- Benefits training;
- Preparing for life after high school – coordination of services training.

The Providence School Department believes that parents must be equal partners in the IEP process. Schools follow many steps to ensure meaningful parental participation. First, IEP teams work to find a mutually agreeable time to meet for all IEP and career planning meetings. Secondly, sufficient notice of all meetings is provided, with documentation of the purpose, time, location and persons to be in attendance. Third, interpreters are provided if needed to ensure meaningful participation. Fourth, the goal for all IEP and special education meetings is to create a culture of partnership, where opinions and beliefs are valued – so that each student receives an adequate and appropriate free public education.

The Providence School Department believes that providing parents' meaningful participation will achieve the following outcomes:

- Increase the teacher's understanding of the child's environment;
- Add to parents' knowledge of the child's educational setting;
- Improve communication between parents and the school;
- Increase the school's understanding of the child;
- Increase the likelihood that, with improved understanding between home and school, mutually agreed upon educational goals will be attained.

Providence Schools also recognizes that as the re-design of the Mt. Pleasant Birch Academy is implemented parents must be informed and be provided critical information regarding design and implementation. Currently three parents of students with disabilities are participating on the Re-Design Team in order to ensure that parent and family perspective and input is incorporated into planning and implementation.

Furthermore, the district's Communications Department and the school principal are in the process of developing a formal communication plan for implementation. Superintendent Lusi provided an informational parent meeting in August to provide clear communication regarding the implementation of these changes to enable parents and families to prepare their child for any and all transitions and changes to their child's program. A frequently asked questions brochure and dedicated phone line are available for parents to access information. The next parent meeting is tentatively scheduled for the November 20, 2013. At that meeting, Mayor Taveras will be present to address parents and provide support regarding the implementation of our plans and goals.

Lessons Learned

The following list outlines the lessons learned from the Birch Vocational investigations and subsequent findings:

- All special education programming and services need to be directly supervised by the Special Education Director for proper leadership, supervision and compliance with State and Federal Regulations;
- Evaluations of all specific programming should take place every three to five years to ensure that services are appropriate and meet the needs of students;
- A hierarchy of supervision for principals and administrators needs to be clear so that accountability can be instituted and achieved;
- All administrators must be held accountable for taking professional development and implementing best practices;
- There must be consequences for inappropriate behavior regardless of who the individual is or the role s/he is in. No one can be allowed to run a program serving children in isolation from the larger school system.

The District's goal is to learn from this experience by reviewing and analyzing the findings and then to institute best practices in the implementation of re-design and improvement planning. The Providence School Department with support from many other individuals, teachers, administrators and community agencies, plans to continue improvement efforts so that

students benefit from the rigorous instruction, full integration, community based services and ongoing review and assessment to achieve their post-secondary goals.