

I worked for 15 years for (b) (6), until the company shutdown; due to the side effects of NAFTA and overseas' competition. Under Federal law, I was provided with Trade Act benefits to provide retraining benefits. I did not use this benefit until recently. As a first step, I meet with (b) (6) at the Oregon Employment Department to discuss my options, to re-enter the work force. It was recommended to me, to consider the OST program, managed and run by Chemeketa Community College. I was informed, that this program is intended to primarily benefit me, to develop new set of skills, to become job ready; to fully qualify for the position at the training site. In addition, the employer is not to expect a substantial gain from my efforts. I read and signed the training site agreement on April 3, 2017; to be trained at DMV headquarters. The training began on April 3 and was to last for a maximum of six months, with a three month option, to continue or not; my decision. The agreement has specific language as follows:

"The site agrees to provide appropriate orientation, skills training instruction and the College is to monitor the instructional program. The site agrees to adhere to OAR 436-120-0445, which indicates that occupational skills training is subject to the following conditions." The three below points that were violated:

C. "The Site does not expect a substantial gain from the Trainee

D. The activity is primarily for the Trainee's benefit.

E. The Site has a sufficient number of employees to accomplish the regular work of the Site and to train the Trainee."

My orientation and training only consisted of DMV policy, safety, and privacy topics. After this, was a brief OTJ demonstration about title processing. On the following day, I was performing the job task like the paid employees and quantity output increased as time went on. During the first week, it occurred to me, that I was being used, to fill the spot of a paid worker and was being taken advantage of. Moreover, I was only allowed one 15 minute break, because this is what the law allows as a minimum, working a scheduled, 5.5 hours. However, I did work more than six hours on several occasions and felt pain in my neck, back and right hand.

On April 11th at 4:45 PM, my husband and I meet with (b) (6) to discuss the situation and my concerns of the work environment. I informed (b) (6), that I am working exactly like a paid worker and that training is non existent. (b) (6) did not see any problems and said that I will receive college credit and this is your compensation. My husband, stated to (b) (6), that it appears to him; signs of cruel/inhuman treatment and that this is actually a 'free labor' situation, rather than a training environment. Again, (b) (6) did not accept the statement and stated for me to deal with it.

On April 16, (b) (6) was assigned as my Trade Act Case Manager. I called (b) (6) on the phone on April 19, to discuss that fact, that I am working and performing the job, just like a paid worker...training was non-existent; I have not learned anything new since my first week. I also discussed, that in my eyes, I am forced labor without a salary. (b) (6) stated that she would forward off my concern to (b) (6), who on April 20th wrote to me that, I have the skills to perform the job, but do not qualify and therefore, does not deserve to be paid. I have more than 48 credit hours of Chemeketa Community College credit and majored in Office Administration, outside of my many years of working. This exceeds the required qualifications of this particular position at DMV. I was also informed by (b) (6), that if I resign early, I will be required to pay back, \$2000 in tuition. I now felt trapped to work forced labor without a salary.

On May 5, I was informed to step up my output. I felt pressured and coerced, to achieve a goal of 70 or more title/registration applications per hour. Immediately, this situation became very uncomfortable, in a similar manner, to what I experienced as a child under the Khmer Rouge Regime, as an indentured servant, forced to perform labor, and was primarily benefiting DMV, without monetary compensation. The pressure to achieve volume, also lead me to skipping my 15 minute brake several times as well.

Despite the terrible situation, I stuck it out and did manage to receive good ratings on attitude and increased my productivity to 69 applications per hour by June 9 and hit 72 by June 12.

(b) (6) : Civil Rights Complaint

On May 31 at 4:30 PM, I meet with (b) (6) and my husband to again discuss the concerns that I have raised from the beginning, as well as taking a break and possibly not continuing on. Both (b) (6) did not say much at this meeting and appeared complicit. (b) (6) again did not see any issues with DMV and past any blame on me. (b) (6) appears to be controlling and orchestrating every idea and notion. (b) (6), by not contributing to the conversation, appear hesitant to challenge (b) (6). My husband questioned Mark, about the working conditions, lack of training, sweat shop work load, which leads to the evidence of benefiting the employer primarily. (b) (6) down played and refuted all concerns my husband raised.

During the meeting, I informed (b) (6) that when school ends; child care is an issue for my youngest. Since I am not receiving a salary to cover child care, I requested a Summer break between the terms and possibly not to continue for the final term, because of what I have experienced. (b) (6) stated that this can be granted after completing the first term, scheduled to end on the last business day of June.

On June 21, (b) (6) completed my Student Evaluation Form:

I received a meets or exceeds on the below:

- Ability to apply appropriate academic skills needed to the job
- Demonstrate the ability to solve problems
- Exhibit the necessary math skills for the job
- Demonstrate understanding of role within organization and maintain effective working relationships
- Exhibit understanding of ethics

I received a making progress rating on the below:

- Communication effectively both orally and in writing
- Demonstrate the ability to use information technology

-I am foreign born, from Cambodia and my rating was potentially influenced as a racial/immigrant bias against me.

The following below training subjects that I was never provided an opportunity to learn:

CIS, Vehicle Data Entry, EVR, Blue Tabs, Review Vehicle Titles Received by Mail, Title Matching at VMP, Maintain Files as Received, Use Sign Out Sheets, Compare Applications, Verify Customer ID, and Update Customer ID

On the week of June 26th, I was finally allowed to take a title registration course....this should have been provided on my first week.

In the month of August, I had several back and forth conversations with (b) (6) about finding another training site and delaying my second term until March 2018. (b) (6), stated it was up to (b) (6), if I was allowed to continue. (b) (6) also threaten to pull my benefits, if I did not continue on September 25. On September 4, I made a decision to continue with my training at a different site. (b) (6) asked me to pick a different site and I selected DMV Mail 2, a different work group and manager from (b) (6) on September 16. I receive an email back from (b) (6) on September 27, stating that he spoke to (b) (6) and that he will not take me back due to low productivity and attitude, nor would he recommend to other managers. (b) (6) stated to me, that (b) (6) spoke to other DMV managers and discredited me. What is interesting, I was informed by (b) (6) on the phone, that (b) (6) gave me a hireable rating at the end of my three month period. (b) (6) would not provide the written 'hireable' document upon my request. In addition, I did receive favorable productivity ratings and good attitude ratings. It appears, that I have been defamed and my professional reputation has been damaged. I have applied for several positions with DMV, deemed qualified and the process halts after this.

(b) (6) : Civil Rights Complaint

Civil Rights Violations:

- **Racial bias against Asian persons**
- **Racial bias against women, particularly women with children**
- **Indentured Servitude “Slave Labor” working without compensation, to primarily benefit DMV and Chemeketa OST program and violation of OAR 436-120-0445 under the OST Agreement.**

(b) (6) 10/30/2017



Oregon

Kate Brown, Governor

Employment Department

875 Union Street NE

Salem, Oregon 97311

(503) 947-1394

TTY-TDD 711

www.Employment.Oregon.gov



NOTICE OF FINAL ACTION

November 13, 2017

(b) (6)

Oregon Employment Department
Trade Act Division
875 Union St NE
Salem, OR 97311-0024
Respondent

Dear (b) (6)

On October 30, 2017, (b) (6) hereby referred to as the Charging Party (CP) filed a complaint of discrimination against the Department of Motor Vehicles (DMV) while participating in an Occupational Skills Training (OST) program overseen by Chemeketa Community College and the Employment Department's Trade Act Program. The CP alleges she experienced a bias at the DMV on the basis of race and gender (being an Asian woman with children), and indentured servitude ("working without compensation"). The CP indicated that she is seeking the following resolution:

- I) Stop any further Civil Rights violations.
- II) That the people involved be reprimanded
- III) That the CP should be compensated for her work at the DMV as well as for emotional suffering.

Per the CP's statement:

- On April 11, the CP met with (b) (6) Occupational Skills Training Program Chair for Chemeketa Community College, to express that she felt she was doing the same work paid employees of DMV were doing. (b) (6) said that the CP's college credit would be her compensation. The CP's husband stated to (b) (6) that this seemed like "free labor".

- On April 19, the CP contacted (b) (6) her Trade Act Case Manager, to discuss the same topic, plus that she felt she received no training for the job she was doing.
- On April 20, (b) (6) wrote to the CP saying that she has “the skills to perform the job, but do not qualify and therefore, does not deserve to be paid.”
- [No specific date] The CP was informed by (b) (6) that if she resigned early [from the program] she would be required to pay back \$2000.00 in tuition, and because of this she felt “trapped to work forced labor without a salary.”
- The CP specifically states that “(b) (6) stated to me, that (b) (6) spoke to other DMV managers and discredited me. What is interesting, I was informed by (b) (6) on the phone, that Steve gave me a hireable [sic] rating at the end of my three month period. (b) (6) would not provide the written ‘hireable’ [sic] document upon my request”
- On the week of June 26th, the CP was finally allowed to take a title registration course....Per the CP, “this should have been provided on my first week”

Finding of Facts:

Chemeketa Community College defines Occupational Skills Training as follows:
The Occupational Skills Training (OST) program offers students with a career goal in mind the opportunity to earn college credit for hands-on training with various companies throughout the state. A suitable training site and curriculum will be determined jointly with you, your sponsoring agency (if applicable), and a Skills Training Coordinator at Chemeketa.

While serving as a training site, employers have the opportunity to observe Chemeketa students in action. Employers can evaluate student skill levels and their fit within the company without long term commitment, when determining future staffing needs.

On April 4, 2017, the CP signed a Trainee Agreement for an Occupational Skills Training through the Trade Act Program. On April 3, 2017, Chemeketa Community College and the DMV signed the Training Site Agreement section of the OST Program agreement, which the CP has a copy of. In the CP’s complaint the CP states that this agreement indicates that:

6...

- c. *The Site does not expect a substantial gain from the Trainee.*
- d. *The activity is primarily for the Trainee’s benefit.*
- e. *The Site has a sufficient number of employees to accomplish the regular work of the Site and the training of the Trainee.*

Upon further review it is found that this agreement also states that:

3. *The results of work products of the Trainee's efforts shall belong to the Site, and neither the college nor the Trainee shall have any right nor claim to such results or work products.*
5. *The Site may dismiss the Trainee from the training program for cause...*

In the "I Must..." section of the Trainee Agreement signed by the CP, it is stated that the Trainee understands that:

7. *...training may be terminated by the College...*
8. *...training site may dismiss me for any cause for which it would terminate an employee.*

Also signed by the CP is a Trade Act Financial Statement of Ability to Complete TAA Approved Training, in which the CP wrote that if she runs out of unemployment benefits before the end of her training, "My family would help me."

On April 20th, the CP received an e-mail from (b) (6) stating that:

"(b) (6) forwarded your email about wanting to be paid for your training at DMV. You are free to apply for any position that is available, full time or part time, and if you are hired at any time during your current term we will apply your time at the new job towards the completion of your OST term, until you've met the required contact hours. However, you cannot demand that DMV pays you, at any point in this OST plan. You are a trainee, a student intern, and it is their choice whether to employ you at the end of training or sooner. You signed onto this arrangement to gain the skills and experience that would make you a competitive applicant. You may already have the -skills, but you do not yet have the required amount of experience. That is why this situation still benefits you more than DMV."

The above statement, which was supplied by the CP, does not indicate that the CP does not deserve to be paid. Instead, it reiterates what was said above about the signed forms.

On September 28 the requested progress reports from Trade Act Case manager, (b) (6) (b) (6) were sent to the CP.

The CP had received unemployment benefits during part of her training. Benefits ran from week 2 to week 28, 2017. Training ran from week 14 to week 39, 2017.

Analysis:

The DMV and its operations are out of the jurisdiction of the Employment Department's Universal Access Coordinator.

The OST Program is designed to provide real work experience to trainees through a similar situation as On the Job Training, where a trainee will do work as a paid employee to gain the necessary experience. It is expected that the Trainee will do actual work as part of gaining experience in a specific job, which then can be used as work experience for future job applications, including the possibility of applying for the training facility. This is not a guarantee but a possibility. The training facility also has the option of, not only, not hiring the Trainee, but also to dismiss the Trainee for any cause they would terminate a regular employee.

The Trade Act Program helps workers who have become unemployed due to increased imports from, or shifts in production to, foreign countries. By law the Program must advise all participants of the benefits and pitfalls that they may encounter while participating in the program, including if an individual decides to stop participation in a training program, such as having to pay back any amount spent on training. The CP was advised of this.

Chemeketa Community College oversees the training itself and is responsible for compliance with the authorized training plan.

Final Actions:

With regard to DMV, the Universal Access Coordinator does not have jurisdiction on said agency's practices or operations. The Oregon Employment Department (OED) has forwarded your complaint to the DMV's Office of Civil Rights, Rebecca Williams, Title VI / EJ/ ADA Programs Manager, at 503-986-3870, Rebecca.J.Williams@odot.state.or.us.

We have also forwarded your complaint to the Bureau of Labor and Industries (BOLI) Civil Rights Division as a possible hostile work environment violation. You may contact them directly at 800 NE Oregon St., Suite 1045, Portland OR 97232, phone: 971-673-0764, e-mail: crdemail@boli.state.or.us. Both of these agencies may contact you for additional information. BOLI does have their own complaint forms that they may require you fill out.

Recommendations:

In addition to the above mentioned resources which have already been contacted, you may wish to also contact the following:

Chemeketa Community College Affirmative Action Officer at P.O. Box 14007, Salem, OR 97309, phone: 503-399-5009.

Legal Aid Services of Oregon (LASO), a statewide non-profit organization that provides access to legal help for people to protect their livelihoods, their health, and their families. 105 High Street SE, Salem, OR 97301, phone: (503) 581-5265, <https://lasoregon.org/>.

Respectfully,



Eric Villegas
Universal Access Coordinator

NOTICE OF CHARGING PARTY RIGHTS:

You are notified that, if a Notice of Final Action has not been issued by the agency within 90 days of the date on which the complaint was filed, or you are not satisfied with the final action of the agency, you (or your authorized representative) may file a complaint with the Director of the Civil Rights Center, U.S. Department of labor, 200 Constitution Avenue, NW, Washington, DC 20210. The complaint must be filed with the Director within 30 days of the date you receive a Notice of Final Action in this matter, or within 30 days of the expiration of the above stated 90 day period (which is within the 120 days of the date the complaint is filed), whichever is earlier.

CC: DMV's Office of Civil Rights; BOLI; Trade Act Unit, Oregon Employment Department.