

Human Rights Watch

Children's Rights

<https://www.hrw.org/news/2012/06/21/us/massachusetts-protect-children-disabilities>

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Letter to Members of the Conference Committee of the State Senate and House of Representatives

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Human Rights Watch wrote in support of Amendment 548 (Regulating Treatment of Disabled Persons) in the proposed Massachusetts state budget, which would put an end to the practice of administering electric shocks as behavior modification to all people with disabilities in Massachusetts. This practice, which is used only at the Judge Rotenberg Center in Canton, MA, fails to respect the dignity of individuals with disabilities and is tantamount to torture. The text of the letter is below.

The Honorable Stephen Brewer
State House, Room 212
Boston, MA 02133

The Honorable Jennifer Flanagan
State House, Room 208
Boston, MA 02133

The Honorable Michael Knapik
State House, Room 419
Boston, MA 02133

The Honorable Brian Dempsey
State House, Room 243
Boston, MA 02133

The Honorable Stephen Kulik
State House, Room 238
Boston, MA 02133

The Honorable Viriato Manuel deMacedo
State House, Room 124
Boston, MA 02133

Dear Members of the Conference Committee:

We write to express our support for the inclusion of Amendment 548 (Regulating Treatment of Disabled Persons) in the proposed Massachusetts state budget. This amendment would put an end to the practice of administering electric shocks as behavior modification (including when used to punish behavior) to all people (including children) with disabilities in Massachusetts, a practice that fails to respect the dignity of individuals with disabilities and is tantamount to torture.

We note that the current international standard describes persons with disabilities as those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.^[1]

As you know, subjecting children with disabilities to electric shock in order to punish their behavior is used in only one facility in the United States: the Judge Rotenberg Center (JRC) in Canton, MA. JRC refers to this practice as aversive therapy. With the approval of a patient's parent and a state court, JRC can apply skin shocks in response to perceived negative behavior by the child. These shocks, according to the JRC website, last two seconds and are applied to the surface of the skin, usually on the arm or leg. Shocks, according to

JRC, are applied to about 42 percent of school-age children in their care, an average of once per week. Children as young as nine years old can receive these shocks.

JRCs description of the limited nature of this procedure is contradicted by various press accounts and by video evidence posted online of the extreme use of shock therapy on Andre McCollins. In 2002 McCollins, who was 18 at the time, was restrained and shocked over 30 times after refusing to take off his coat. In the video, according to one press account, McCollins can be seen writhing in agony and screaming to be saved.^[2] One lawmaker who volunteered to receive the shocks described them as horrendously painful.^[3] A reporter who also volunteered for the shocks described the feeling as a horde of wasps attacking me all at once.^[4]

Any use of physical force as punishment intended to cause some degree of pain or discomfort is seen by the UN Committee on the Rights of the Child as corporal punishment under international law, and has been qualified by all relevant intergovernmental human rights monitoring bodies as cruel, inhuman or degrading punishment [and] can no longer be justified, not even under the most exceptional situations.^[5]

Few rights are as fundamental as the right to be free from torture and cruel, inhuman, or degrading treatment. This right can be found in most major international human rights treaties, including the International Covenant on Civil and Political Rights and the Convention against Torture, both ratified by the US. The right to not be tortured or to be subjected to cruel, inhuman, or degrading treatment is also expressly stated in the Convention on the Rights of Persons with Disabilities which is before the US Senate for its advice and consent and included in the Convention on the Rights of the Child, which the US signed in 1995.

The JRC disputes that the practice of shocking children with disabilities is a form of torture, framing the practice as a therapeutic intervention. Yet according to experts on international human rights law, the absence of consent of the child and the child's powerlessness, combined with the purposeful infliction of physical pain to punish the child, meet the criteria for torture.^[6]

The JRC also cites parental support for the treatment as an additional rationale for its use of aversive treatment. Yet under international human rights law, parental consent does not absolve states from their obligation to protect children with disabilities from torture and cruel, inhuman, and degrading treatment. No consent can justify such treatment.

The practices at JRC amount to torture or cruel, inhuman, and degrading treatment, and they violate the inherent dignity of every person with a disability at JRC who receives the shocks. The Judge Rotenberg Center is an aberration; the practices in this school are unallowable even unfathomable anywhere else in the United States, in any medical facility, school, detention facility, jail, or prison. Massachusetts must put an end to this barbaric practice. We therefore urge you to incorporate Amendment 548 into the proposed budget and protect persons with disabilities in your state from further harm.

Sincerely,

Antonio Ginatta
Advocacy Director, US Program
Human Rights Watch

cc: The Honorable Brian Joyce
State House, Room 109D
Boston, MA 02133

^[1]Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008, art. 1. The United States signed the CRPD in 2009 but has not ratified. To date, 153 countries have signed the treaty and 115 have ratified.

^[2]Martin Robinson, Tortured, terrorised and abused: Shocking new video shows disabled boy strapped down and shocked 31 times at school by his own laughing teachers for seven hours, *The Daily Mail* (UK), April 12, 2012, <http://www.dailymail.co.uk/news/article-2128671/Tortured-terrorised-abus...> (accessed June 21, 2012).

^[3]Tom Benner, Canton school head: Shocking students is safe; Lawmakers discuss restricting use of aversive therapy at Rotenberg Center, *The Patriot Ledger*, January 16, 2012, <http://www.arcmass.org/StateHousePolicy/RegulationandPolicyDebates/Avers...> (accessed June 21, 2012).

^[4]Maia Szalavitz, Shock School Trial: Where Is the Evidence that Abuse Helps Treat Autism? *Time*, April 23, 2012, <http://healthland.time.com/2012/04/23/shock-school-trial-where-is-the-ev...> (accessed June 21, 2012).

^[5]UN Human Rights Council, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, January 14, 2009, A/HRC/10/44, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=498c211e2> (accessed June 21, 2012), para. 37.

^[6]Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by the United States on October 21, 1994, art. 1.

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