

# FACT SHEET

## Rhode Island Supported Employment and Integrated Day Services Consent Decree

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### Background

The consent decree resolves the Civil Rights Division's Jan. 6, 2014, findings that the State of Rhode Island violated the Americans with Disabilities Act (ADA) and the Supreme Court's decision in *Olmstead v. L.C.* by failing to serve individuals with intellectual and developmental disabilities (I/DD) in the most integrated day activity service setting appropriate for their needs, and by placing transition-age youth at serious risk of segregation. The consent decree focuses on three target populations: (1) individuals in sheltered workshops; (2) individuals in facility-based day programs; and (3) youth in transition from secondary school.

### Frequently Used Terms

- A sheltered workshop is a segregated facility that exclusively or primarily employs persons with I/DD. Sheltered workshops are usually large institutional facilities in which persons with I/DD have little or no contact with non-disabled persons besides paid staff. People with I/DD in sheltered workshops typically earn wages that are well below minimum wage.
- Facility-based day programs are programs in which people with disabilities participate in segregated non-work activities during the day. These services are often provided by the same service providers and in the same buildings as sheltered workshops.
- Supported employment services allow persons with disabilities to work in typical jobs in the community at competitive wages. Such services include job discovery, vocational assessment, job coaching, and job training. These services enable individuals with I/DD to access jobs in typical work settings where they can interact with non-disabled coworkers, customers, and peers, and enjoy the same benefits of employment that their non-disabled peers enjoy.
- Integrated day services allow persons with I/DD to engage in self-directed activities in the community at times and frequencies and with persons of their choosing, and to interact to the fullest extent possible with non-disabled peers. For instance, integrated day services allow persons with I/DD to participate in and gain membership in mainstream community-based recreational, social, educational, cultural, and athletic activities, including community volunteer activities and training activities.

### Employment and Day Services in Rhode Island

In Rhode Island, day activity services for individuals with I/DD include sheltered workshops, facility-based day programs, integrated supported employment, and integrated day services. The state plans, funds, and administers these services through provider agencies licensed by the state.

**The Finding:** In Rhode Island, approximately 80 percent of the people with I/DD receiving state services, about 2,700 individuals, are placed in segregated sheltered workshops or facility-based

day programs. By contrast, only about 12 percent, or approximately 385 individuals, participate in individualized, integrated employment. The investigation found that the state has over-relied on segregated service settings to the exclusion of integrated alternatives.

Placement in segregated settings is frequently permanent: nearly half (46.2 percent) of the individuals in sheltered workshops have been in that setting for ten years or more, and over one-third (34.2 percent) have been there for fifteen years or more. Individuals with I/DD in sheltered workshops in Rhode Island reportedly earn an average of only about \$2.21 per hour.

**The Remedy:** Under the consent decree, the state has pledged a sustained commitment to transform its service system over the next 10 years, providing relief to approximately 3,250 people. Rhode Island will provide supported employment placements to approximately 2,000 individuals, including at least 700 people currently in sheltered workshops, at least 950 people currently in facility-based non-work programs, and approximately 300-350 students leaving high school.

Supported employment placements must provide persons with I/DD with supported employment services in integrated employment settings where they (1) are paid at least minimum wage, (2) work the maximum number of hours consistent with their abilities and preferences, and (3) interact with peers without disabilities to the fullest extent possible. As a group (not individually), persons receiving supported employment placements under the consent decree will average 20 hours of work per week in integrated employment settings. All persons receiving supported employment placements will also be provided with integrated non-work services, ensuring that individuals have access to integrated work and non-work hours for a total 40 hours per week.

To ensure informed choice, individuals with I/DD may remain in segregated programs if they request a variance after they have received a vocational assessment, a trial work experience, outreach information and benefits counseling.

### **Transition-Age Youth**

**The Finding:** The ADA and *Olmstead* prohibit public entities from placing individuals, including young people with I/DD, at serious risk of unnecessary segregation. According to state data, among youth with I/DD who transitioned out of Rhode Island secondary schools between 2010 and 2012, only about five percent transitioned into jobs in integrated settings, even though many more of these youth are able to work in integrated employment and are not opposed to doing so.

**The Remedy:** Under the consent decree, the state will provide transition services to approximately 1,250 youth between the ages of 14 and 21. Also under the consent decree, the Rhode Island Department of Education (RIDE) will adopt an employment first policy, making work in integrated employment settings a priority service option for youth. State agencies will promote the implementation of a school-to-work transition planning process that will include specific timelines and benchmarks for all youth between the ages of 14 and 21. Youth in transition will receive integrated vocational and situational assessments, trial work experiences, and an array of other services to ensure that they have meaningful opportunities to work in the community after they exit school.

## **Other Provisions**

### **Outreach, Education and Support:**

- The state will develop an outreach, in-reach and education program that explains the benefits of supported employment and addresses families' concerns about participating in supported employment.
- The state will create an employment first task force of local stakeholders, advocacy organizations, parent and business leadership networks, individuals with I/DD and family representatives.

### **Provider Capacity:**

- The state will establish a sheltered workshop conversion institute to assist qualified providers of sheltered workshop services to convert their employment programs to supported employment services.
- The state will establish a sheltered workshop conversion trust fund of \$800,000 to assist with upfront start-up costs to providers that have agreed to convert their services from primarily sheltered employment to primarily supported employment services.
- The state will pursue a contract with technical assistance providers to provide leadership, training and technical assistance to employment and day services providers and to state staff.

### **Interagency Collaboration:**

- The state will implement interagency agreements among the Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (BHDDH), the Office of Rehabilitation Services (ORS) and RIDE.

### **Funding:**

- The state will reallocate resources currently expended on sheltered workshop and segregated day programs to instead fund supported employment and/or integrated day services as an individual transitions from segregated to integrated service settings, allowing funding to follow the person without an increase in cost.
- The state will ensure that its reimbursement model for day activity services is sufficiently flexible to allow reimbursement for costs such as transportation, employer negotiation and counseling clients by phone. This will enable providers to support and provide services to individuals in supported employment placements even when the provider staff is not face-to-face with a client.

### **Quality Assurance:**

- The state will implement a statewide quality improvement initiative and will regularly conduct on-site reviews of its day activity service programs and publish reports describing its findings and recommendations, identifying any program deficiencies and requiring a plan of correction, where appropriate.

### **Data Collection and Monitoring:**

- The state will collect data and report on a variety of data points and report to the United States periodically.
- Compliance with the consent decree will be overseen by a monitor jointly selected by the parties.