Olmstead v. L.C.

The U.S. Supreme Court decision in *Olmstead v. L.C.* (119 S. Ct. 2176) arose under Federal law—the Americans with Disabilities Act (ADA).
Olmstead’s central holding is that the ADA prohibits states from unnecessarily segregating persons with disabilities and from failing to serve them in the most integrated setting.
“A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”

28 C.F.R. Pt 35app. A § 35.130 (B)
THE MOST INTEGRATED SETTING:

A setting that enables individuals with disabilities to interact with non-disabled persons to the fullest.

28 C.F.R. Pt 35app. A § 35.130 (d)
Purpose of This Report

• To Review State Activities over the Past Five Years

• Identify Strengths and Areas of Concern

• Submit Key Recommendations Toward Substantial Compliance
Methodology

• Stakeholder interviews
  – People with disabilities and families
  – State and County Staff
  – Community, Advocacy and Provider Organizations

• Listening Sessions

• Document Review

• Internet Research
Evaluation Questions

1. Is there a statewide effectively working plan to ensure that people with disabilities are being and will be served in the most integrated setting?

2. Are policies and procedures in place or being proposed that promote and facilitate services in the most integrated settings?

3. Is Nevada making reasonable and effective efforts to identify and assess people with disabilities who may be unnecessarily served in segregated settings?

4. For people who are waiting for community living supports and services, are they receiving these services with reasonable promptness?

5. Are there activities or initiatives occurring to adequately expand community supports and services in order to avert unnecessary segregation?
A National Look At Olmstead

• High Emphasis From Obama Administration – New initiatives designed for increased interagency communication toward community living support.

• DOJ Enforcement – DOJ has now intervened or initiated new litigation in many states with emphasis on most integrated setting. No longer limited to residential institutions.

• CMS Attention: Increased latitude regarding waivers that facilitate self-direction and supported living. New rules now require person-centered thinking and emphasizes most integrated settings.

• Continued Funding Opportunities – Funds for Money-Follows-The-Person, Balancing Incentive Program and expansion of Section 8 housing vouchers, funds for housing capacity building.
What does Olmstead Mean for States?

• Many States are Devastated with budget cuts.
• Change over fifteen years in:
  – Fewer People in Being Admitted to Institutions
  – Substantial Growth in community residential supports
  – Reduction of census of people in institutions
• No state claims to be 100% Olmstead compliant
• Most states still have inconsistent understanding of what Olmstead requires
• Varying degrees of state legislative support for Olmstead related activities.
Overall Findings

• Nevada remains to be one of the leading states in the country in its commitment to Olmstead.

• Nevada started early through plan development which pushed them ahead of most states. Diligence with regard to plan implementation and modification has made a difference.

• Strategic plans have expired and replaced with disconnected plans and activities.

• Started with relatively small number in institutions and meager resources for community.
Strengths

• People with developmental disabilities are in More Integrated Settings
  – 70% decrease of people in institutions
  – Fewer than 50 people in remaining state facility
  – More than 700% increase in number of people in community supports

• Adults with Mental Illness
  – Low number of people in state hospitals
  – Lower average length of stay in hospitals
  – Continued efforts to reduce long term hospital beds

• Nursing facilities
  – Proactive program to identify people and assist them in transition
  – Deflection activities appear to be working

• Out-of-State Placements Have Decreased
Primary Barriers to Increasing Community Capacity

- Available and Accessible Transportation
- Affordable and Accessible Housing (statewide)
- Employment Supports and Opportunities (statewide)
- Community Behavioral Health/Psychiatric Supports (especially in rural)
- Growing Waiting Lists that Move Slowly
- Insufficient Person-Centered Plan
- Skilled Staff and Clinicians (rural)
- Community Dental Supports
- Available Sign Language Interpreters
- Specialized Services to Children and Adults with Autism
- Possible Budget Cuts!!!!
Recommendations

• **Recommendation #1:** Nevada should develop a 10-year community integration plan for Nevadans with disabilities and those with age-related conditions.
  - With Gubernatorial and Legislative Support
  - Needs Statewide Comprehensive Stakeholder Involvement
  - Should Incorporate Measurable Outcomes
  - Should Include Long-Term Budget Projections

• **Recommendation #2:** Nevada public agencies should establish an internal mechanism to evaluate ongoing compliance with Olmstead and the ADA integration mandate.
Recommendations (Cont,)

• **Recommendation #3:** Nevada should develop policies and oversight mechanisms for waiting lists prioritization and corresponding reasonable pace standards.

• **Recommendation #4:** Nevada should develop mechanisms to directly engage consumers and families in planning and designing supports.

• **Recommendation #5:** Nevada should conduct a specialized needs assessment in rural and frontier areas in order to identify services gaps in these areas and develop a plan to address these gaps.