



TO: P-12 Education and Adult Career and Continuing Education Services (ACCES) Committees

FROM: Kevin G. Smith 
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SUBJECT: Olmstead Update - Full Integration for Students and Adults with Intellectual and Developmental Disabilities

DATE: September 8, 2014

AUTHORIZATION(S): 
SUMMARY

Issue for Discussion

New York State's Olmstead Implementation Plan.

Reason(s) for Consideration

To provide the Board of Regents additional information on initiatives that ensure State services, programs, and activities are provided to students and adults in settings that allow individuals with disabilities to interact with their nondisabled peers to the fullest extent possible, and are consistent with New York State's Olmstead Implementation Plan.

Proposed Handling

This item will come before the Board of Regents in a joint presentation to the P-12 Education and ACCES Committees at their September 2014 meeting.

Background Information

On June 22, 1999, the United States Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act. The Court held that public

entities must provide services to those with disabilities in the most integrated setting appropriate.

Following this decision, New York established the Most Integrated Setting Coordinating Council (MISCC) in accordance with Chapter 551 of the Laws of 2002 to develop a comprehensive statewide plan to ensure that people of all ages with physical and mental disabilities receive care and services in the most integrated settings appropriate to their individual needs. Additionally, through a November 2012 executive order, Governor Cuomo established the Olmstead Development and Implementation Cabinet (Olmstead Cabinet). The Olmstead Cabinet subsequently developed a comprehensive Olmstead Implementation Plan to meet New York's obligations under the United States Supreme Court decision. Through this plan, New York made a commitment to:

- assist in transitioning people with disabilities into the community from developmental centers, intermediate care facilities, sheltered workshops, psychiatric centers, adult homes, and nursing homes;
- reform the assessment of the needs and choices of people with disabilities;
- adopt new Olmstead outcome measures for people with disabilities;
- enhance integrated housing, employment, and transportation services available to people with disabilities;
- improve services to children, seniors, and people with disabilities involved with the criminal justice system;
- remove legal barriers to community integration; and
- assure continuing accountability for serving people with disabilities in the most integrated setting.

MISCC is the means of public accountability for the State's accomplishment of the Olmstead Plan. Working in collaboration with a number of State agencies (including the State Education Department), the Office for People With Development Disabilities (OPWDD) has the lead role in coordinating the implementation of New York's plan.

In 2009, the Civil Rights Division of the United States Department of Justice launched an aggressive effort to enforce the Olmstead decision. In April 2014, a settlement was reached with Rhode Island to resolve findings that Rhode Island's day activity service system over relies on segregated settings, including sheltered workshops and facility-based day programs, to the exclusion of integrated alternatives, such as supported employment and integrated day services. It also found that for the students at Rhode Island's Harold A. Birch Vocational Program at Mount Pleasant High School there was virtually no career development or transition planning process to ensure that youth would successfully move into community-based jobs as they were placed directly into a sheltered workshop operated by a community-based provider.

Significant System and Policy Changes in New York State

As a result of the Olmstead mandate, New York State is making significant shifts in public policy. In 2013, OPWDD initiated its Transformation Agreement to reform its system of supports and services for individuals with developmental disabilities in the

areas of employment, integrated living and self-direction of services. Effective July 2013, new admissions to sheltered workshops are no longer permitted. Several changes are expected as a result of this policy shift.

- Adults with significant disabilities currently served in sheltered workshops and day habilitation programs must receive the supports and services necessary to transition to competitive employment settings.
- Youth exiting the education system must be appropriately prepared to transition to competitive employment.
- Existing providers of sheltered workshops must shift to integrated business models in order to remain viable and provide services consistent with the Olmstead Implementation Plan.

New York State Education Department Strategies

ACCES-Vocational Rehabilitation (VR), P-12's Office of Special Education, and Independent Living Centers (ILCs) are involved in the following initiatives to support the transition of students with disabilities to integrated employment settings and facilitate the transition of individuals from day habilitation programs and sheltered employment to competitive employment.

Students

- With the July 2013 implementation of the Skills and Achievement Commencement Credential, there is increased focus on preparing students with severe disabilities, who often transition to day habilitation programs and sheltered employment, with the skills necessary for successful supported employment. Students must be instructed in the Career Development and Occupational Studies (CDOS) Learning Standards in the areas of career development, integrated learning and the universal foundation skills and provided opportunities, as appropriate, to engage in instructional and work preparation experiences. Students with severe disabilities who take the New York State Alternate Assessment exit school with the Skills and Achievement Commencement Credential which provides documentation of the student's work-related skills and their level of attainment of the CDOS Learning Standards. Specific information is provided on supports from which the student has benefited and how to structure the student's environment for successful completion of a task. This documentation will provide important information for adult services agencies preparing students for post-school employment.
- The Regional Special Education Technical Assistance Support Centers (RSE-TASC) provide ongoing professional development to districts on the implementation of the Skills and Achievement Commencement Credential. They also provide professional development and ongoing technical assistance to Committee on Special Education Chairpersons. Information regarding policy changes related to employment options for students with severe disabilities will continue during the 2014-15 school year.

- The RSE-TASC transition specialists facilitate ongoing regional meetings with school districts and other community partners, including OPWDD's regional staff, in which policies and practices related to a student's transition are shared.
- In June 2014, OPWDD and ACCES-VR staff met with the RSE-TASC transition specialists to provide detailed information on OPWDD's Transformation Agreement and policy changes related to the employment of individuals with disabilities. Beginning with the 2014-15 school year, the transition specialists will facilitate regional meetings in which OPWDD regional staff will meet with school districts to provide information about OPWDD's Transformation Agreement relative to the employment options and services for individuals with severe disabilities.
- P-12's Office of Special Education funded Statewide Transition Services Professional Development Support Center (PDSC) at Cornell University provides ongoing professional development to support the RSE-TASC transition specialists in their work with districts related to the transition of students with disabilities to adult living, learning and working. Much of the PDSC's work for the coming year will focus on policy changes related to the Olmstead Implementation Plan and Transformation Agreement and the provision of transition services to prepare students for competitive employment.
- In November 2013, a representative from OPWDD provided information to the Commissioner's Advisory Panel for Special Education Services on policy changes and activities related to the Transformation Agreement and Olmstead Implementation Plan. Members engaged in a discussion with OPWDD leadership and provided recommendations related to providing information to parents about these changes; identifying options and supports for individuals with severe disabilities, behavioral issues, and significant health needs for whom integrated employment may be challenging; and increasing focus on benefits planning, transportation and collaboration with business.
- ACCES-VR's Statewide Transition and Youth Services Unit will build capacity throughout the State to better inform schools, youth, families and other collateral community services about the options for VR and other employment services available to individuals with disabilities. ACCES-VR's Regional Vocational Rehabilitation Community Employment Specialists will have an active role in providing technical assistance to local education agencies on post-school options.
- ACCES-VR, through its Core Rehabilitation Services (CRS) contract, has made opportunities for provider-assisted integrated work experiences available, along with other youth employment services.

Adults

- ACCES-VR has long maintained a substantial, high quality statewide supported employment program. Almost 200 agencies statewide are under contract to provide supported employment services. Of the 12,025 individuals who achieved

employment during FFY 2013, 2,397 individuals were placed into integrated job settings with supports.

- Specifically, individuals in supported employment are expected to earn at least minimum wage and to be employed for the maximum number of hours consistent with the person's capabilities. Effective January 1, 2014, CRS contracts have instituted a performance-based milestone approach to supported employment that includes quality bonus payments for higher wage placements and for employment of 30 hours or more per week.
- ACCES-VR has a contract with Cornell University to provide training through the Consortium for the Advancement of Supported Employment (CASE) for all providers of supported employment in New York State. Through CASE, provider staff in the supported employment program are continuously developing the knowledge and skills necessary to provide quality service. The curriculum focuses on defining integration and offering tools so that integrated competitive employment can be achieved.
- ACCES-VR is working very closely with OPWDD to develop a formal agreement to identify the role that each agency will have in developing strategies to assist people with developmental disabilities in achieving competitive employment. One strategy is a cooperative assessment process to ensure individuals with very significant disabilities exiting workshops or school, with need for a high level of support and pre-vocational training, are able to obtain that service without delay.
- ACCES-VR Regional Coordinators and District Managers have done outreach to the OPWDD Development Disabilities Regional Office Directors to re-establish and/or strengthen the local working relationships to build solid collaboration.

Independent Living Centers

- In 2012, the New York State Independent Living Council (NYSILC) released the findings of a needs assessment that identified metrics on New Yorkers with disabilities relative to employment and poverty. Subsequently, NYSILC and advocates from the ILC network are working with the Governor's Olmstead Cabinet to consider the metrics as the starting point to advance employment of people with disabilities.
- Several ILCs across the State have expanded employment services through work as Employment Networks under the Ticket to Work; as providers of supported employment and placement services under Core Rehabilitation Services (CRS); with OPWDD providing Pathway to Employment Services; and under Department of Health's Medicaid Redesign Team strategies and Balancing Incentive Program.
- Twenty-one ILCs are CRS providers of benefits advisement. Through informing and supporting ACCES-VR consumers about how work incentives allow for earnings, ILCs will become instrumental in guiding youth and adults on Supplemental Security Insurance/Disability Insurance to enhance employment outcomes.

Recommendation

Department staff will continue to follow up on the actions noted. Additionally, with support of the Board of Regents, the Department will invite OPWDD to engage in a discussion of opportunities for additional collaboration to ensure full implementation of New York State's Olmstead plan for integration.