

The Department of Justice and the ADA's Integration Mandate: A Year in Review



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Overview

1. DOJ's Enforcement of Title II of the ADA's Integration Mandate
2. Cases in Litigation
3. Cases in Compliance



Important Principles in DOJ *Olmstead* Enforcement

- Relief designed to create integrated, quality community-based alternatives—not just about moving people out of segregated settings.
- Ensure that people have opportunities for integration in all aspects of their lives: where they live and how they spend their days.
- Engagement of a range of stakeholders – consumers, families, advocates, providers – is essential to successful outcomes.



DOJ *Olmstead* Cases in Litigation



U.S. v. Florida

- Filed in 2013.
- Complaint alleges unnecessary segregation and risk of segregation of children with disabilities in nursing facilities.
- District court dismissed, *sua sponte*, in September 2016: held that the U.S. did not have standing to sue to enforce Title II of the ADA.
- The United States appealed. Oral argument before the 11th Circuit took place in October 2018.



U.S. v. Mississippi

- Filed in 2016.
- Complaint alleges segregation of individuals with mental illness in state-run psychiatric hospitals.
- Trial is set for June 2019.



Steward v. Perry

Background

- Alleges that Texas unnecessarily segregates individuals with intellectual or developmental disabilities (IDD) in nursing facilities.
- Two-year interim settlement agreement expired in 2015, and litigation resumed.
- Trial was held in October-November 2018.



Steward v. Perry

DOJ Conclusions of Law

- United States has the authority to bring suit under Title II of the ADA.
- ADA obligations are not limited by the scope of the Medicaid requirements.
- Community placement is “appropriate” (1) when the state is serving persons in the community whose disabilities and support needs are similar to residents of the institution or (2) when the person previously lived in the community with supports that adequately addressed similar needs.



Steward v. Perry

DOJ Conclusions of Law (cont'd)

- The ADA requires that states provide sufficient, individualized information and opportunities that allow individuals to make an informed choice whether to remain in or enter a segregated setting.
- An effectively working *Olmstead* Plan cannot ignore specific groups of people in particular institutions.



Select DOJ *Olmstead* Cases in Compliance



United States v. Louisiana

Complaint

- In June 2018, the U.S. filed a complaint alleging:
 - unnecessary institutionalization of adults with serious mental illness (SMI) in nursing facilities
 - 3,800 nursing facility residents with SMI
 - 73% stay in those facilities for more than a year



United States v. Louisiana

Agreement

- Addresses diversion, pre-admission screening, in-reach, transition planning, post-discharge case management, community support services, and quality assurance
- State must develop an “Implementation Plan”
- Plan must set targets for creating housing units and rental subsidies
- By December 2019, State must establish a minimum of 100 short-term rental subsidies



United States v. New York

Background

- The U.S. and private plaintiffs are monitoring an agreement remedying discrimination by the State of New York in the administration of its mental health service system.
- Agreement ensures that individuals with mental illness who reside in 23 large adult homes in New York City receive services in the most integrated setting appropriate to their needs.
- In September 2018, the Court approved the parties' proposed supplemental agreement.



United States v. New York

Supplemental Settlement Agreement

- Consolidates in-reach, assessment, and housing responsibility within the housing contractor agency
- Requires State to implement a peer bridger program
- Adds timelines and metrics to each stage of the transition process
- Requires State to create a Quality Assurance process



United States v. North Carolina

- In 2012, the United States and the State of North Carolina entered into a settlement agreement to resolve the United States' claims that North Carolina's mental health service system violates the ADA.
- Agreement covers adults with SMI in, or at risk of entry into, adult care homes.



United States v. North Carolina (cont'd)

- Provide community-based supported housing to 3,000 individuals
- Provide supported employment services to 2,500 individuals
- More than 1,700 people are living in supported housing and more than 2,000 people are receiving supported employment services



Segregated Employment Services



DOJ Enforcement of Title II in Employment Service Systems

- *United States v. Rhode Island and the City of Providence (2013)*
- *United States v. Rhode Island (2014)*
- *Lane v. Brown (formerly Lane v. Kitzhaber) (2015)*



U.S. v. Rhode Island and the City of Providence

Settlement (2013):

- Involved one sheltered workshop for adults and one school
- Relief for 200 individuals
- Opportunities for competitive, integrated employment
- Integrated day services



United States v. Rhode Island

Settlement (2014):

- Provides opportunities to 2,000 people with I/DD to transition to integrated employment
- Provides transition services to 1,250 youth
- Builds provider capacity
- Requires Employment First policies, person-centered planning and benefits plans, and outreach, education, and training



Lane v. Brown

Statewide Settlement (2015):

- Provides 1,115 working-age individuals with I/DD with services so that they will obtain integrated employment
- Provides 4,900 youth ages 14-24 years old with supported employment services



Filing an ADA Complaint/ADA Resources

File a Complaint at:

ADA ■ gov

Call the ADA Information Line:

800-514-0301 (voice) or 800-514-0383 (TTY)

