

APSE Position on Olmstead and Supported Employment

In 1999, the Association for Persons in Supported Employment issued a call for action to reverse the wide practice in this country of segregated “employment” for adults with high support needs. APSE is not alone in publicly stating that individuals with disabilities must be protected from unnecessary isolation.

- In July, 1999 the Supreme Court issued a decision in Olmstead v. L.C. that Title II of the Americans with Disabilities Act requires states to provide individuals with disabilities with services and programs in “the most integrated setting appropriate to the needs of qualified individuals with disabilities.”

While the Olmstead case was about institutional vs. community living, the integration mandate applies to all state and local programs and indeed extends to state day and sheltered employment services.

- In January, 2001 the Rehabilitative Services Administration issued regulations limiting employment outcomes in the Title I vocational rehabilitation system to *integrated employment*. Under the RSA Rule a sheltered work setting could only be funded with Title I funds under temporary training circumstances leading to integrated employment.

Inclusive competitive employment is the clear goal the Rehabilitation Act has established for State-VR programs.

- In January, 2000 the Health Care Financing Administration (HCFA) wrote to State Medicaid Directors: “...Medicaid may be of great assistance to States in fulfilling their civil rights responsibilities under the Americans with Disabilities Act (ADA).” HCFA promised to “review federal Medicaid policies and regulations to identify areas in which policy clarification or modification would facilitate your efforts to enable persons with disabilities to be served in the most integrated setting appropriate to their needs.”

HCFA’s primary Olmstead enforcement efforts have been focused on individuals who are “allegedly inappropriately institutionalized or are at risk of inappropriate institutionalization,” and on “states’ efforts to craft comprehensive, effectively working plans to remedy inappropriate institutionalization.” However, they also have made it clear that the decision includes all public programs.

Since the two major Federal funding sources for employment services for individuals with disabilities have taken the lead on community inclusion, providing, through landmark decisions, a new foundation for state supported employment services across the country

...APSE calls on each State VR system, Medicaid program, and One Stop Center to fully implement the spirit and mandate of the Supreme Court and the Rehabilitative Services Administration through the dedication of funding and other resources to support a strong statewide system of supported employment for all individuals with high support needs who choose to work.