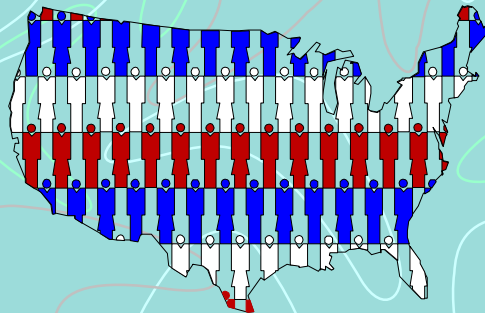
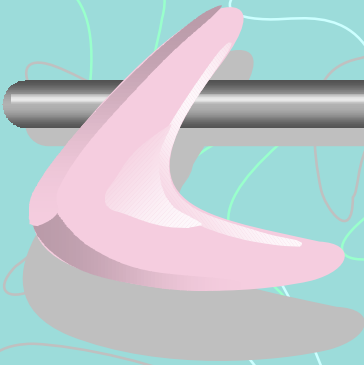


WAITING LISTS AND OLMSTEAD



Presented By: Tony Records

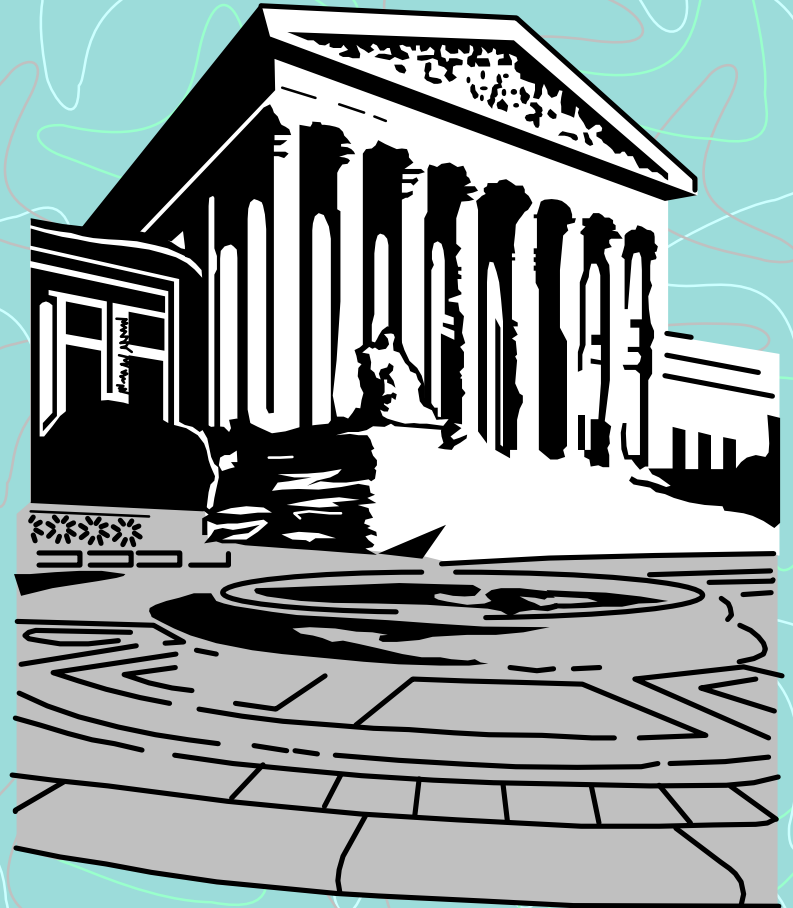
President, TRA, Inc.

traconsult@mindspring.com



Olmstead v. L.C.

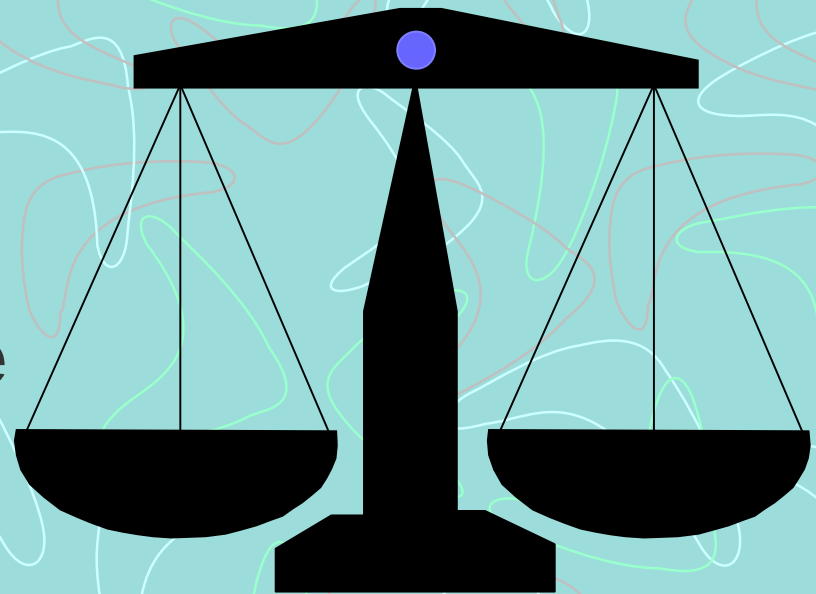
The U.S. Supreme Court decision in *Olmstead v. L.C.* (119 S. Ct. 2176) arose under Federal law—the Americans with Disabilities Act (ADA).





Unjustified Institutionalization

Olmstead's central holding is that the ADA prohibits states from unnecessarily institutionalizing persons with disabilities and from failing to serve them in the most integrated setting.





OLMSTEAD v. L.C.

KEY LEGAL CONCLUSIONS

Unnecessary segregation, isolation and institutionalization of people with disabilities is discrimination

People with disabilities have a **CIVIL RIGHT to be provided with services and/or benefits in the most integrated setting.**



WHEN IS COMMUNITY PLACEMENT REQUIRED?

- **Treatment professionals have determined community placement is appropriate;**
- **Transfer is not opposed by the “affected individual;”**
- **Community placement can be reasonably accommodated, taking into account resources available and needs of others.**



Supreme Court said: Reasonable modifications standard might be met, if state has :

- ⊕ A ***comprehensive, effectively working plan*** for placing persons with disabilities in less restrictive settings, and
- ⊕ A ***waiting list*** that moved at a ***reasonable pace*** not controlled by the state's efforts to keep institutions fully populated.



WAITING LIST STANDARDS

- ❑ The Waiting List Standards are intended to assist advocates within the state in determining whether a state meets the Olmstead defenses.
- ❑ All four standards may be utilized in determining whether a state has a waiting list for integrated services that moves at a “reasonable pace.”
- ❑ The standards may also be helpful in determining whether the state has a “comprehensive, effectively working plan” to serve individuals with disabilities in most integrated settings.
- ❑ Following each standard are evaluation questions to assist in the application of the standards to a state’s plan and waiting list policies and procedures.



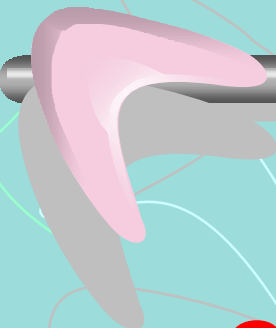
Waiting List Standards

- **Standard 1** – *The state has a “comprehensive and effectively working plan” that addresses the community-based service needs of qualified individuals with disabilities over time.*
- **Standard 2** - *The state has a prioritization system for qualified individuals with disabilities waiting for community services that is fair and reasonable, and community services are provided to those with immediate needs in a prompt manner.*
- **Standard 3:** *The state utilizes an up-to-date information collection process that effectively and accurately captures the current and prospective community service needs of qualified individuals with disabilities throughout the state.*
- **Standard 4** - *The waiting list policies and procedures are sufficiently clear and comprehensive to adequately inform interested parties of the conditions under which qualified individuals with disabilities could get community services and when they may expect to get services.*



So How Do We Define Promising Practices?

- **Likely To Produce Best Results**
- **Change From the Status Quo**
- **Based on Sound Principles and Research**
- **Includes or Prioritizes Unserved and Underserved**
- **Can Be Sustained Over Several Years**
- **Expandable to Support More People Over Time**
- **Receives Support from State and Disability Community**
- **Adopts Current Thinking and Principles**



STANDARD #1: *The state has a “comprehensive and effectively working plan” that addresses the community-based service needs of qualified individuals with disabilities over time.*



Promising Practices: Standard 1

- The state has developed a plan that establishes concrete disability policy goals, measurable objectives, and time-based benchmarks that drive funding and other policy decisions.
 - For example, the California Legislature, through the Lanterman Act, has established a requirement that all individuals with developmental disabilities in the state should be served in the most integrated setting appropriate to their needs.



Promising Practices: Standard 1

- **The plan is developed through a collaborative approach including people with disabilities and other stakeholders.**
 - For example, Arkansas utilized a “big tent” process to include participation of people with disabilities across the state in the establishment of goal for their Olmstead plan.




Promising Practices: Standard 1

- **There is a proven strategy and framework for the design of the planning process.**
 - Some states have established guidelines for cross agency planning purposes For example Connecticut's guidelines include the "Strategic Business Planning Guide," by Connecticut's Office of Policy and Management.



Promising Practices: Standard 1

- **The plan includes a process for ongoing and regular review by policy makers and stakeholders.**
 - Nevada developed the *Nevada Strategic Plan for People with Disabilities* in January 2003. This plan, developed with the input and participation of hundreds of people with disabilities and other stakeholders, comprehensively identifies the needs of people with all types and levels of disabilities and includes a corresponding strategy to address all identified needs. Following the approval of the plan by the state legislature and the governor, a steering committee was appointed to oversee day-to-day implementation of the plan and report implementation status to the state legislature on an on-going basis.

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Standard 2: *The state has a prioritization system for qualified individuals with disabilities waiting for community services that is fair and reasonable, and community services are provided to those with immediate needs in a prompt manner.*



Promising Practices: Standard 2

- The waiting list utilizes valid testing instruments to assess and prioritize the need for services on an objective scale, and services are allocated in accordance with documented need.
 - For example, certain states and counties use the Prioritization of Urgency of Need for Services (PUNS) instrument to collect a standard set of data on individuals who are waiting for services and supports. PUNS is a management tool for states such as Pennsylvania and Illinois and has been used to address waiting list issues that have been identified in lawsuits.




Promising Practices: Standard 2

- **The state has a valid systemic process of ranking and selection of people for the waiting list.**
 - Virginia utilizes the Supports Intensity Scale (SIS), which is a validated assessment instrument that measures individual's medical, behavioral, and social needs for services, and the intensity of such needs. SIS consists of an 8-page interview and profile form that measures support needs in 87 different parameters. The SIS effectively evaluates practical support requirements of a person with an intellectual disability on an 8-point scale, with .5 point gradations. Virginia integrates the SIS with its waiting list by prioritizing applicants based on their SIS scores ensuring that individuals receive services based on their objectively-determined and documented¹⁷ need.



Promising Practices: Standard 2

- The state offers interim or partial services while the individual is on the waiting list.
- The state has a clear way of identifying people with disabilities living in institutions who can appropriately transition to community living arrangements.

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Standard 3: *The state utilizes an up-to-date information collection process that effectively and accurately captures the current and prospective community service needs of qualified individuals with disabilities throughout the state.*



Promising Practices: Standard 3

- **The statewide data system uses assessment information predictive of the need for community-based services.**
 - Pennsylvania has developed the Home and Community Services Information System (HCSIS). HCSIS is a web-based client information system that is integrated with the eligibility and claims processing system for the entire Public Welfare department (including mental retardation and developmental disabilities services). Real-time individual information is available to case managers and providers as well as state and county administrators. With this award winning data system, the state knows who is enrolled, who is waiting, what services the person needs or is receiving and what services will cost.



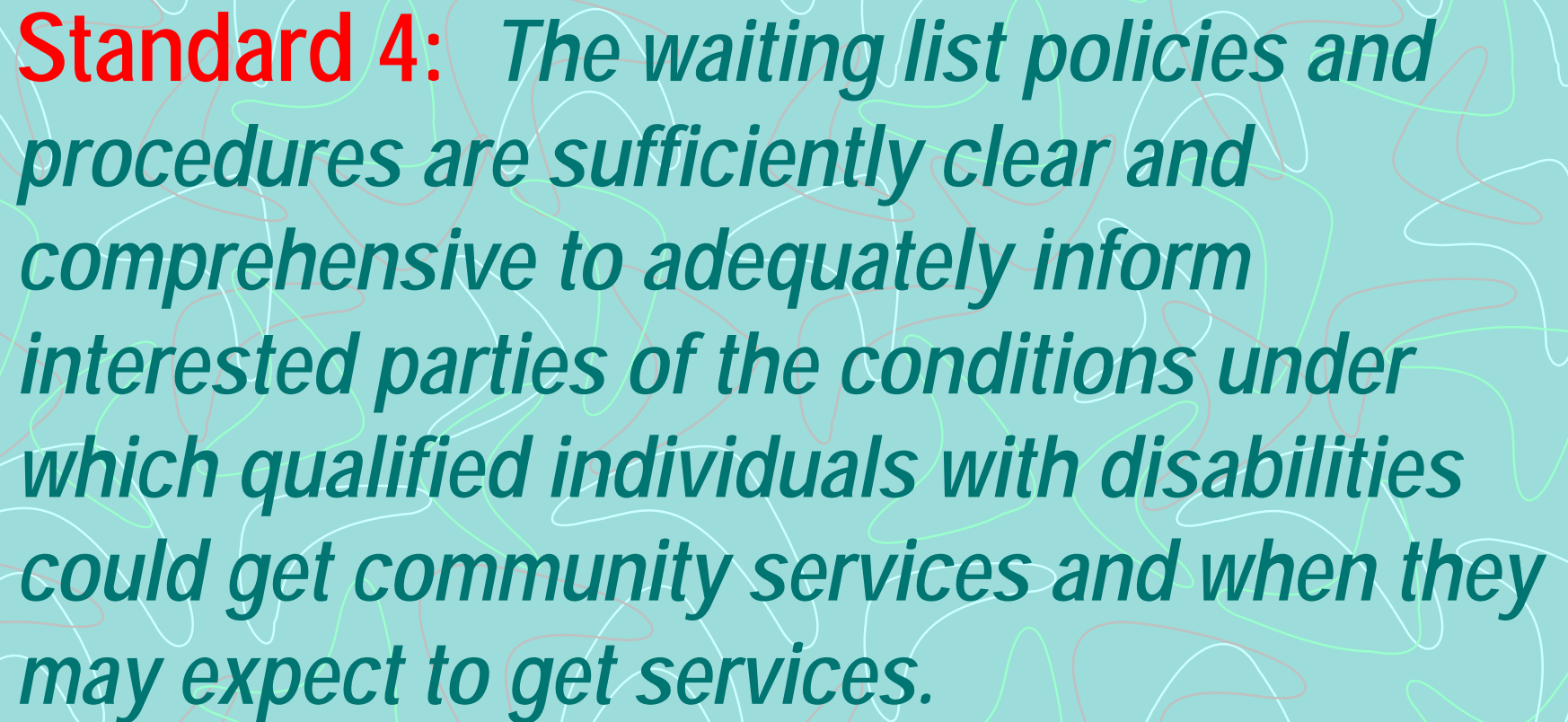
Promising Practices: Standard 3

- **Baseline individual assessment information is captured and reported in consistent, clearly-defined and measurable terms.**
 - Indiana uses its *Olmstead Data Collection Tool* to identify people with various disabilities who may be at risk of unnecessary institutionalization. This tool identifies specific service needs, funding eligibility, consumer choice and funding needs. Each agency is expected to complete data sets and establish budget needs accordingly for each targeted population. The data are then centralized and used to establish budget allocation requests.



Promising Practices: Standard 3

- The state evaluates its data collection system on a regular basis, ensuring consistency, reliability and validity of data. People with disabilities and other stakeholders are involved in the evaluation of data collection system. The state uses the data on a regular basis to plan for resources and generate public reports on future needs.

A hand holding a pen, with a background of colorful scribbles. The hand is pink and the pen is grey. The background is light blue with various colored scribbles in red, green, and white.

Standard 4: *The waiting list policies and procedures are sufficiently clear and comprehensive to adequately inform interested parties of the conditions under which qualified individuals with disabilities could get community services and when they may expect to get services.*



Promising Practices: Standard 4

- **The state informs individuals in writing of their status on the waiting list, how this status was determined, and within reasonable parameters, how soon they may be expected to receive community services.**
 - In Wisconsin, consumers can read a website that includes a description and explanation about each of the state's initiatives for funding community placement of its developmental disabilities population, including its "ICFMR restructuring program" and its "community integration" program. In addition, Wisconsin requires that each person on the waiting list be notified every six months of "his/her status on the waiting list as well as an estimate of when funding for services may become available."



Promising Practices: Standard 4

- The state has written material describing its waiting list policies, which it sends to consumers, advocates, and the interested public, if requested.
 - Connecticut's Department of Developmental Services has also developed a variety of required training curricula for its case managers, support brokers and families on waiting list policies and procedures, eligibility criteria, HCBS waiver enrollment and individual budgeting.



Promising Practices: Standard 4

- The state provides information about its waiting list for individuals with disabilities by including a list of frequently asked questions on its website.
 - Connecticut initiated numerous activities at regional and statewide levels to inform individuals and families of waiting list policies and procedures. These activities include the following:
 - **Consumer/Family Guidebook.** The Department of Developmental Services waiver?" and "What options do I have in service delivery?" as well as many other straightforward questions.
 - **DDS Website.** The DDS website provides many links for families and consumers on services and supports