

# Disability Rights Nebraska

## INSIDE OLMSTEAD



Photo: Lois Curtis, surviving plaintiff in the Olmstead Decision

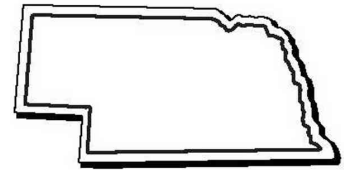
### ***OLMSTEAD V. L.C. EX REL. ZIMRING***

*Olmstead v. L.C.* is a U.S. Supreme Court case based on Title II of the Americans with Disabilities Act of 1990. In *Olmstead*, the Supreme Court ruled that states are required to provide services to people with disabilities in the most integrated setting appropriate to their needs. *Olmstead* applies to those who are institutionalized, those who are at risk of being institutionalized, and more recently those who are segregated by the services or practices of the state.

The *Olmstead* case involved two women with mental health diagnoses and intellectual disabilities. Both women spent a significant amount of time in mental health hospitals. They wished to receive services and supports in the community and a treatment professional determined they did not need to be in a hospital. The Supreme Court ruled that it was discrimination to require the women to live in a mental health hospital when they did not need to live in that type of setting.

### **Why Does the Olmstead Case Matter to Nebraska?**

**Nebraska does not have an Olmstead Plan that transitions people with disabilities from congregated, isolated settings into more integrated, community-based settings.**



#### **Why does Nebraska need an Olmstead Plan?**

The Americans with Disabilities Act (ADA) was passed by a bipartisan Congress in 1990, to prevent and eliminate discrimination of people with disabilities. The ADA forbids state or local governments or agencies from discriminating against people because of their disability. In *Olmstead*, the Supreme Court interpreted the ADA to mean that unnecessary segregation of people with disabilities is discrimination under the ADA. This has been expanded to apply when a state fails to provide community-based services, or fails to find placements for people, in the most integrated setting appropriate to the person's needs.

**To comply with the ADA, Nebraska must create an effective plan to assist people with disabilities so they can live and work in more integrated community settings.**

#### **Do other States have Olmstead Plans?**

**Yes.** Every state must comply with the federal ADA law. Some states have voluntarily created Olmstead Plans. Some states, however, have been investigated by the Department of Justice (DOJ) and have been required to create Olmstead Plans. The DOJ found these states relied too heavily on congregated and isolated housing for people with disabilities. No state is immune to litigation. Nebraska is at risk of being sued because the state has not done enough to support the integration of people with disabilities into community-based settings. Developing an Olmstead Plan would be a step in the right direction.

# Segregated v. Integrated: *Olmstead* in Action

A good Olmstead Plan has real action steps, in various areas of life, to achieve the promise of the ADA and provide people with options to live and work in the least restrictive, most integrated settings possible. The plan must be more than just a “vague assurance” that future options will be available. It cannot merely describe a state’s history of increasing funding for community services and decreasing the population of people who are living in its institutions. The chart below highlights differences between characteristics in areas that cause people with disabilities to be isolated and segregated from the community and what full integration under an effective Olmstead Plan can look like.

Area	Segregated Characteristics	Integrated Characteristics
<b>Housing</b>	Homes populated with only or primarily people with disabilities. This includes state funding of assisted living facilities and mental health centers.	Homes located in places where people with and without disabilities live.
<b>Employment</b>	Jobs including sheltered workshops and day treatment programs that primarily employ people with disabilities.	Jobs that offer competitive wages and are based on the person’s interests. Jobs that employ people with and without disabilities.
<b>Transportation</b>	Transportation that is limited and regimented. Trips must be planned in advance and may include multiple stops and people in each trip.	Transportation is accessible, reliable, efficient, and available to people with and without disabilities.
<b>Education</b>	Receiving educational services in rooms with only students with disabilities.	Receiving educational services and supports in the same classroom as students without disabilities.
<b>Individual Choice</b>	Schedules set by someone else, no food or dining choices, lack of privacy, no choice in who to interact with, and who to share a room with.	The person decides when, where, how, and with whom to do things, what to eat, where to live, and with whom to live.

**What is clear from reviewing the table is that just one characteristic of segregation can affect the other areas of a person’s life.** For example, segregated transportation often acts as a barrier to competitive employment and limits the opportunity for natural, social interaction. Often times, segregated transportation, if available at all, is very limited. When transportation is not available, people in a segregated environment cannot get to work, cannot save money, cannot live on their own—which means they cannot have choices. This is why an Olmstead Plan must span across various areas of life and must have real action steps that are developed to integrate people with disabilities into the communities of their choosing.

