

# **Disability Policy and the Olmstead Decision**

## **Olmstead and Community**

### **A Three Course Self Study Series on Community Integration for Persons with Disabilities**

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## PREFACE

Welcome Fellow Advocate... In March 1998, Justin Dart said: “I propose that we of the disability community lead the revolution of empowerment...[this] is not empty rhetoric. There is a distinct and vital difference between society/government that empowers people, and a society/government that provides for them and regulates them for their own good...empowerment is when government joins with business, labor, religion, and individual citizens to guarantee every person the tool to govern, to produce and [to] live the best life possible for self and for all...we have unique knowledge and experience to offer. We have the responsibility to lead.”

It is more important now, than it ever has been, to become an effective advocate. There are thousands of our friends with disabilities who are living in institutions or nursing homes. There are even more who are living in the community but will need advocacy and support from us to remain in the community.

It isn't easy to be an advocate, but it is necessary! The Supreme Court decision known as *Olmstead vs. L.C.*, has changed the landscape for advocates. It provides the framework for advocacy to support persons with disabilities to transition out of nursing homes and other institutions into the community. *Olmstead* also supports persons with disabilities to remain in the community and not be placed in institutions.

Advocating can be a major challenge and yet a most rewarding experience. Advocating for a cause promotes reformation, a new perspective, and most of all greatness because advocating means stepping outside of comfort zones. It means doing something that the average person would not do...and it means opening up new worlds and new perspectives for you and for others. It is informing and—teaching.

A team of experienced advocates have come together not only to bring their own advocacy experiences to these lessons, but to gather the best principles from the most successful and experienced advocates for persons with disabilities. They did this in hopes of making your advocating more effective. They know what it's like to get the runaround and hit roadblocks, and experience the frustration. They also know how it feels when you are successful in getting people out of institutions as well as ensuring that people with disabilities live in communities.

The modules are full of information that will help you if you truly study and complete the exercises. Some of the modules have lists of resources after them that will be very helpful in finding more information. For some of you (because you have had more experience) this information may be easy to understand...and for others it may be a little more difficult to understand because of the complexity. Be patient and continue to study. It will come.

The most helpful part will be if you already have an advocacy goal in mind when you begin the course. Helping people live in the community is always an excellent goal and requires advocacy in many different arenas. Having a goal will help the modules become meaningful and you can apply them to your current position. It will help you to take action when you receive the right information.

Good luck, and as Justin said, “...we have unique knowledge and experience to offer. We have the responsibility to lead.”

## ACKNOWLEDGEMENTS

Support for this *Olmstead* Training Project was provided by the U.S. Departments of Education, Health and Human Services, and Labor. Several officials in these departments demonstrated great commitment to this important project: Thomas Hamilton, Bob Williams, Henry Claypool, Judy Heumann, Curtis Richards, Tom Finch, and James Billy. Initial planning was supported through funding provided to ILRU by the Robert Wood Johnson Foundation.

Initial development work for the project was done at ILRU and the BIA, Inc. by Lex Frieden, Allan Bergman, Laurie Redd, and Laurel Richards. Bob Kafka of ADAPT played a pivotal role in project design. Richard Petty of ILRU has headed curriculum development and coordinated three of the training conferences on which the video course is based. He also headed development of the video-based training modules. Allan Bergman of the BIA, Inc. coordinated two training sessions and provided valuable leadership for the project. Sharon Finney of ILRU managed materials development and training logistics.

The curriculum for this video-based course was developed, under the direction of ILRU, at the Utah State University Center for Persons with Disabilities. Dr. Judith Holt led the development team. She was assisted by Carri George, B.A. and Catherine E. Chambless, Ph.D. Many others have participated in the development of the overall training approach and curriculum, including: Mike Auberger, Sandra Barrett, Jan Bergman, Lee Bezanson, Carol Bianco, Suzanne Crisp, Danita Davis, Amy Fitzgerald, Nikki Highsmith, Rosalie Kane, Debbie Kaplan, Darlene (Dee) O'Connor, Mike Oxford, Helen Roth, Ralph Rouse, Claudia Schlosberg, Bobby Silverstein, Steve Somers, Phil Stinebuck, Janna Starr, Cathy Ficker Terrill, Nainan Thomas, and Phyllis B. Wolfe. Many others have assisted in all stages of development and implementation.

Sue Fager, Deborah Leuchovius, and others of the PACER Center invested significant time and effort in the development process and pilot training, especially the transition module, and helped make the entire set of manuals more useful and user friendly for youth and families. Sue Fager has continued to work with curriculum developers throughout the final revision process which has resulted in this version of the material.

The leaders and staffs of ILRU, BIA, Inc., and the Center for Persons with Disabilities at Utah State University wish to express our deepest appreciation to all who have made this training possible. We believe the work of advocates in states across the nation will create lasting change to improve the lives of people with disabilities of all ages. The other sponsors and supporters of this training are committed to supporting advocates and officials in their important role.

# Course One: Disability Policy and the Olmstead Decision

## Olmstead and Community

### A Three Course Self Study Series on Community Integration for Persons with Disabilities

#### Course Description, Context, Objectives and Listing of Audio Modules

Participants will learn about the background and significance of the U.S. Supreme Court *Olmstead* Decision that will examine a framework for analyzing disability policy that may be used to determine if state and federal laws and programs really support the rights of persons with disabilities. They will also better understand how the ADA formed the basis for the *Olmstead* decision and the importance of that decision for people with disabilities.

#### Course One Objectives

Examine a framework to analyze disability policy to determine if state, federal and local laws and programs truly support the rights of persons with disabilities. Learn the background and significance of the U.S. Supreme Court *Olmstead* Decision and its impact on opportunities for people with disabilities to live in the community. Learn how to develop an advocacy plan within the context of the disability policy framework that will help you improve your effectiveness in work to improve the lives of people with disabilities.

#### Course One Objectives

- Examine a framework to analyze disability policy to determine if state, federal and local laws and programs truly support the rights of persons with disabilities.
- Learn the background and significance of the U.S. Supreme Court *Olmstead* Decision and its impact on opportunities for people with disabilities to live in the community.
- Learn how to develop an advocacy plan within the context of the disability policy framework that will help you improve your effectiveness in work to improve the lives of people with disabilities.

### **List of audio files and corresponding sessions:**

- Session 2: “History and the Old Paradigm” - (Bobby Silverstein)  
Session 3: “The New Paradigm and Core Precept” - (Bobby Silverstein)  
Session 4: Goal One—Equality of Opportunity - (Bobby Silverstein)  
Session 5: Goal Two—Full Participation - (Bobby Silverstein)  
Session 6: Goal Three—Independent Living - (Bobby Silverstein)  
Session 7: Goal Four—Economic Self Sufficiency - (Bobby Silverstein)  
Session 8: Methods of Administration - (Bobby Silverstein)  
Session 9: Interview with Lois and Elaine - (Lois Artis, Sue Jamieson  
and Elaine Wilson)  
Session 11: “Vision for the Future” - (Mike Oxford)  
Session 13: “Where I Got Started” - (Mike Oxford)

### **IMPORTANT CONTACT INFORMATION**

For Answers to Questions on Course Content:

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## **SESSION ONE: Introduction, Orientation and Expectations**

Throughout this course you will listen to audio clips of different persons explaining the concepts covered in the course. The first sessions have audio of Bobby Silverstein explaining critical concepts and strategies you need to understand in order to be an effective advocate. Between the sections of audio you will complete exercises that will assist you to learn these concepts and strategies. The course has been designed for leaders and staff of centers for independent living and statewide independent living councils. Others involved in disability advocacy and home and community-based services will also find the course useful.

This is a self-study course. You will work at your own pace. The authors recommend that you schedule a block of time, say three to four weeks, during which you will read this manual and complete the exercises. Plan to spend an hour or so on each session. Some sessions will take less time, others a little longer. Create a notebook for your answers and even after the course keep it with this manual for future reference.

Your level of learning will depend on the amount of effort and time you apply to the course and on your willingness to do all the tasks necessary to respond to the exercises in this manual. You may need to interview disability leaders, public officials and even the staff of your own organization in order to answer some of the questions. The authors encourage you to “dig deep.”

If you get stuck, don't hesitate to contact ILRU. We can help answer your questions and put you in contact with others addressing *Olmstead* issues. And, if you find self study challenging, ask about the online and traditional conference training that we offer. For some, the reinforcement of a class setting makes learning much more pleasurable. See the cover pages of this course for ILRU contact information.

### **Here are the important concepts you will be learning in the first few sessions of the course:**

- How attitudes and perceptions about people with disabilities resulted in a long history of institutionalization.
- How the Old Paradigm of beliefs about people with disabilities affected policies in the past.
- The Core Precept and four goals of the New Paradigm of disability policy.
- How to ask questions about the institutions and laws to see if their principles meet the standards of the core precept and goals, and apply this knowledge to your own advocacy plan.

**For this session –**

- Read the preface and this first section.
- Review the entire course manual; note the upcoming sections.
- Locate the audio segments on CD.
- Create a course notebook for yourself where you can record your answers to exercises in your course notebook, write a brief statement about what you hope to gain from the course. This is also a good time to think about your long-range objectives related to *Olmstead*. How do you want to further implementation of this important court ruling? Think about your goals and write them down in your course notebook. Here are some examples of personal goals others have set:
  - Assist individuals to leave institutions (specify how many and over what time period).
  - Create a support group for people leaving institutions.
  - Go to institutions and identify people there who want to leave and help them begin to plan their move back into the community.
  - Advocate for my town to add 100 vouchers for housing so those leaving institutions can have affordable, accessible, integrated housing.

These are just examples. Your own may be quite different.

## SESSION TWO: History and Old Paradigm of Disability Policy

In session two, you will learn about the history of disability policy and what Bobby Silverstein refers to as the “old paradigm.” Bobby focuses on:

- A common set of principles, derived from sound policies, to use as a framework for advocating.
- The historical perspectives of policies and the importance of understanding them in order to make changes for the future.
- The old paradigm of disability policy and some examples.

*Before you begin the audio, read Bobby Silverstein’s biography.*

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### Bio

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#### **Biography: Robert Silverstein, J.D.**

Robert “Bobby” Silverstein, J.D., is the Director of the Center for the Study and Advancement of Disability Policy (CSADP). Mr. Silverstein has over 25 years experience providing policy analysis and research for and technical assistance to policymakers. He has negotiated and drafted public policy at the federal, state, and local levels. In his capacity, Mr. Silverstein played a central role in all important disability policy legislation produced between 1987-1997, including the landmark Americans with Disabilities Act, 15 other pieces of legislation, and numerous disability-related amendments to other bills concerning health, civil rights, education, and job training. Silverstein has won respect from Republicans as well as Democrats, leaders of the disability community, representatives from state and local governments, and the business community for his commitment to developing bipartisan consensus legislation that is based on sound research.



*Play the audio clip, “History and the Old Paradigm.” (8 minutes)*

*When finished, complete the exercises below.*

#### **Application and Discussion**

Bobby talked about the history of some institutions that were developed because of the work of commissions made up of policymakers and professionals. For example, one commission was called “Commission to Address Feeble-mindedness and the Menace of Feeble-mindedness.” Write the answers to the following questions.

1. Name an example of an institution for people with disabilities in your state. Institutions can include residential facilities for persons with mental illness and/or mental retardation. The facilities may be large or as small as 10 beds. Nursing homes are also considered institutions. Do you know the history? Who originally advocated for starting it?

2. What groups or individuals are advocating for maintaining the institution(s) in your state today? What about parent groups? Employees of institutions? Why do they support keeping the institutions open?
3. Do you know the opinions of agency officials or lawmakers about maintaining institutions? Who are the officials and what are their opinions? Agency officials may include Medicaid staff, the state agency responsible for serving people with disabilities, and the agency responsible for serving people with mental illness.

### **Wisconsin Supreme Court Decision**

“Merritt has been a crippled and defective child since his birth. Afflicted with a form of paralysis, which affects his whole physical and nervous makeup, he has not the normal control of his voice, hand, feet, and body. By reasons of said paralysis, his vocal chords are afflicted.”

The School Board claimed that his physical condition and ailment produces a “depressing and nauseating effect on the teachers and school children; that by reason of his physical condition he takes up an undue portion of the teacher’s time and attention, distracts the attention of other pupils, and interferes generally with the discipline and progress of the school.”

The Wisconsin Supreme Court concluded that this child must be/may be excluded from public education because, “his presence is harmful to the best interests of the school. Individual rights must be subordinated to the general welfare.”

4. Bobby used this example from Wisconsin to demonstrate some of the old paradigms for making policies. Can you see evidence of the “old paradigm” in state programs or policies? Are nursing homes the same as institutions?
5. Is there a particular person in an institution, nursing home, or the community that you would like to advocate for? Are there some barriers in the community that you would like to remove? If so, what are they? Write down your specific advocacy goal (your goal may become more specific as you advance through the courses).

## SESSION THREE: New Paradigm of Disability Policy and Core Precept

In this session Bobby Silverstein discusses:

- The two main ideas in the core precept of Disability Policy, which are:
  1. Disability is a natural part of the human experience.
  2. The approach is to fix the environment, not the individual.
- The need to communicate the core precept to the policymakers.
- The four goals of Disability Policy, which are:
  1. Equality of Opportunity
  2. Full Participation
  3. Independent Living
  4. Economic Self-Sufficiency



*Play the audio clip: “The New Paradigm and Core Precept” (3 minutes).  
When finished, proceed to the exercises.*

### Application and Discussion

#### The Core Precept

Look at the scenarios below and discuss how the two main ideas in the core precept apply to these scenarios:

- Disability is a natural part of the human experience.
- The approach is to fix the environment, not the individual.

**Scenario:** Jaylee, age 10, received brain damage at birth in a difficult delivery. Her ability to act quickly is impaired. At a birthday party, she is able to break the piñata, but before she can get any candy, all of the candy is gone.

**Scenario:** Bryan, age 15 and a talented basketball player; fell from a horse and suffered serious spinal cord damage. He lacks use of both legs. He still wants to play basketball.

**Scenario:** Mario likes to eat at a restaurant downtown, but he cannot access the building easily because the curb is not cut to allow wheelchair access.

1. Do you have an example of how society can “fix the environment” to provide effective and meaningful opportunities for people with disabilities? Explain.
2. Who would you contact to help implement this change? What will you need to communicate to this person to make it happen?

## SESSION FOUR: Goal One: Equality of Opportunity

**Three components of Goal One: Equality of Opportunity, are:**

1. Individualization
2. Inclusion and Integration
3. Effective and meaningful opportunity to participate



*Play the audio clip, “Goal One: Equality of Opportunity” (3 minutes).  
When finished, proceed to the exercises below.*

### **Application and discussion**

**Goal One:** Equality of Opportunity

1. Bobby defines Equality of Opportunity as having three components. Name and define the three components.

### **Individualization**

*Read these scenarios and answer the following questions.*

**Scenario:** Petra is a 12 year old student with above average grades in school. She has cerebral palsy which makes her speech difficult for many people to understand. The school has provided her with a speech board to help with communication. She receives her education in a regular classroom.

2. In terms of individualization, in what ways can programs base decisions on “facts and objective evidence” rather than on “stereotypes, prejudice, or fear”? Can you identify why Petra's story is an example of individualization?

### **Effective and Meaningful Opportunity to Participate**

**Scenario:** A mother approaches her child's teacher about letting her child, Amy, go to the lunchroom ahead of time to get her food because she has a difficult time chewing and swallowing her lunch in the time allotted for the lunch period. Amy has hypotonic (soft or weak) muscles in her throat and mouth, and is frustrated because she cannot finish her lunch in time to play with the other children after lunch, or she is late to class.

3. In the conversation with the teacher, the mother mentions that her child should have “reasonable accommodation.” What should the classroom teacher do?

**Scenario:** Joe is 24, has a visual impairment, and can read any written materials that are in large print. He has recently completed certification as a medical coder and is seeking work in the health field. Joe says that all he needs is a screen reader device to enlarge computer screens or written materials.

4. Is Joe asking for “special treatment?”

## **Inclusion and Integration**

The last component of “Equality of Opportunity” that Bobby talked about is Inclusion and Integration or a person should be included, not segregated in order to get a public benefit.

5. Have you ever experienced a time when you or someone you know with a disability has been segregated or isolated from others in order to receive a benefit? Is isolation ever justifiable? *Explain.*

**Scenario:** Arnold is a 24 year old man with Down Syndrome who wants a job. The local employment support agency interviews Arnold and his family and learns that he loves animals. The job coach develops a position for Arnold at a pet boarding kennel as a dog walker.

6. Can you identify why Arnold’s story is an example of inclusion and integration?

## SESSION FIVE: Goal Two: Full Participation

In this section of the course, Bobby Silverstein discusses Goal Two: Full Participation.



***Play the audio clip, “Goal Two: Full Participation.” (<1 minute).***

*When finished, read the examples below for each component and answer the questions.*

### Application and Discussion

#### Goal Two: Full Participation

##### Individual Level

**Scenario:** Emily is a 14 year old student in special education. When Emily’s parents went to school for her IEP meeting, the teacher proposed that Emily be included in the meetings so that she would be able to contribute and feel a part of her own plan.

1. Look at the policies of schools, institutions, nursing homes, or other agencies and determine how people with disabilities are involved with decisions that affect their lives. Can you think of examples?
2. Why do you think it’s important for individuals to be involved directly in making decisions that affect their services and supports?
3. What does it mean to you to be “empowered, self-determined, self-advocating, and having informed choice”?
4. Should individuals with disabilities and/or their families be involved in decisions at the individual person level? Is this happening?

##### Systems Level

**Scenario:** John is an adult with HIV/AIDS. He was invited to be a member of the Medical Care Advisory Committee for the Department of Health.

5. What opportunities exist for individuals with disabilities and/or family members to be involved in decision-making at the policy level? What type of policies can be influenced?

## SESSION SIX: Goal Three: Independent Living

In this session, Bobby Silverstein discusses Goal Three: Independent Living.



*Play audio: Session 6: Goal Three — Independent Living (<1 minute).*

### Application and Discussion

*Read the story of Monica, who is transitioning to independent living; then answer the questions.*

**Scenario:** Monica is 28 and qualifies for living support services because of her disability. She has always lived with her parents until they passed away recently. The support agency is helping Monica to find an apartment and a job near where she has siblings and friends.

1. Discuss how programs support independent living. What supports are available and what supports are missing in your communities?
2. Bobby says that under the new paradigm, independent living is considered a legitimate outcome of public policy. Do you think some policy-makers regard independent living as illegitimate? Can you think of why people feel this way?
3. What does Bobby mean when he says that the policy should have provisions to support independent living skills and support for personal assistance services, assistive technology, and cash assistance?

## SESSION SEVEN: Goal Four: Economic Self-Sufficiency

In this session, Bobby Silverstein discusses Goal Four: Economic Self-Sufficiency.



*Play the audio clip, “Goal four: Economic Self sufficiency” (<1 minute).*

*Then read the section below about a vision for a better work support system contained in the Ticket to Work and Work Incentives Improvement Act of 1999.*

*Following the reading complete the discussion questions.*

### **A Vision for a Better Work Support System**

Advocates with a vision of a better, integrated adult support system, that includes work for individuals with disabilities, persuaded Congress to pass the Ticket to Work and Work Incentives Improvement Act (TWWIIA) in 1999.

Nine years after the passage of the ADA, this new law contains a vision for a more person-centered, coordinated, and comprehensive system of supports for adults with significant disabilities who need ongoing supports to work in the community.

The TWWIIA law addresses many barriers to work faced by people with significant disabilities, including work disincentives (i.e., loss of cash and health care benefits) and the lack of coordination among the many federal and state assistance programs. The TWWIIA legislation was signed by President Clinton but has the strong support of President George W. Bush’s administration.

Some of the important provisions of the TWWIIA law are describe below. As advocates for individuals with disabilities, you need to find out which provisions are available in your state and community.

### **Medicaid Buy-In**

State legislatures and Medicaid agencies can change their state’s Medicaid eligibility requirements to include working adults with disabilities. If an adult meets the Social Security standard of disability, he/she can work and earn above the poverty level and continue to receive the health care benefits provided by Medicaid, if needed.

Most states that have adopted this buy-in program charge a premium, on a sliding scale for those who qualify, and most have an upper income limit between 250% and 450% of poverty. The buy-in program allows states to change their rules so that working adults with disabilities don’t have to live in poverty and can save for retirement and other goals. To learn if your state has the buy-in, go to:

*<http://www.cms.hhs.gov/twwiia/statemap.asp>*

## Medicaid Infrastructure Grants (MIG)

The Centers for Medicare and Medicaid Services (CMS) has awarded grants to states to develop comprehensive, coordinated systems of work supports for individuals with significant disabilities. These grants are intended to help states improve their employment support systems beginning at whatever point a state happens to be. Some states have used MIG funds to develop a Medicaid buy-in program, a benefits counseling program, employer education, and outreach to consumers.

A strong emphasis of the MIG is to expand personal assistance services. CMS requires a state to demonstrate improvement in personal assistance services that support work for people with disabilities as a condition for continuing to receive a MIG.

To learn about your state's Medicaid Infrastructure Grant, go to:

*[http://www.cms.hhs.gov/twwiia/inf\\_dmap.asp](http://www.cms.hhs.gov/twwiia/inf_dmap.asp)*



## Social Security Work Incentive Changes

There are two cash assistance programs for people with disabilities administered by the Social Security Administration: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI). These programs send monthly checks to eligible individuals.

The Social Security Administration wants to encourage people with disabilities to work if they are able. Both SSDI and SSI have rules about what happens if a recipient has earned income from work. The rules are very complicated and confusing because many recipients do not know which program they are on.

The TWWIA law made some positive changes to work incentives for all of SSDI, SSI, and Medicare. The SSA agency has made administrative changes in order to provide better knowledge of work incentives by agency claims representatives.

To learn about work incentive rules, go to: *<http://www.ssa.gov/work>*

## Benefits Counseling

The Social Security Administration (SSA) has awarded grants to local agencies in each state to develop counseling services for recipients of SSA disability cash benefits (SSDI and SSI) who want to work. The national program is called Benefits Planning Assistance and Outreach (BPAO) and it is for people who are already receiving SSDI and/or SSI benefits and want to know how finding a job and going to work will affect their public benefits.

The counseling is not limited to the impact of earnings on cash benefits, but includes advice on health care, housing, transportation, food stamps, or other public benefits.

To learn about BPAO programs in your state, go to:

*<http://www.ssa.gov/work/ServiceProviders/bpaofactsheet.html>*

### **Ticket to Work and Self-Sufficiency**

Ticket to Work is a program intended to give SSDI/SSI recipients greater choice among service providers to help them return to work or work for the first time. The Ticket promises to provide payment to Employment Networks (approved service providers) if the individual goes off government programs that provide benefits or makes progress toward going off benefits as a result of working. The SSDI/SSI recipient is not subject to continuing disability reviews due to working while using the Ticket. To learn more about Ticket to Work in your state, go to:

*<http://www.yourtickettowork.com>*

### **Protection and Advocacy for Beneficiaries of Social Security**

Grants are available to each state protection and advocacy agency to assist SSDI/SSI recipients with discrimination issues with employers and public agencies. These grants can also be used for legal assistance to help recipients with overpayment problems with Social Security resulting from changes in earned income. To learn where the PABSS program is in your state, go to:

*<http://www.ssa.gov/work/ServiceProviders/pafactsheet.html>*

### **Application and Discussion**

Scenario: James Todd has a spinal cord injury (quadriplegia) due to a car accident at age 16. He is now 32, married with one daughter, and works as a computer technician for county government. His employer provides health insurance and retirement benefits so that he felt secure enough, a couple of years ago, to go off his Social Security Disability benefits. James said he did not want to live in poverty all his life.

1. Name some examples of supports that were necessary for James Todd to be able to achieve this level of self-sufficiency. Are the services available for you locally?
2. Are you aware of any new policy changes in your state that support people with disabilities to work? What are they?

## SESSION EIGHT: Methods of Administration and the ADA

In this session you will learn about a checklist that helps to determine if important components of a policy are present. You will discuss how to address the methods of administration for an advocacy plan. Then we will take you through the steps of developing an advocacy plan by using a simple planning model.



### *Play the audio clip: Methods of Administration*

Throughout the audio Bobby Silverstein refers to a very important “Checklist.” The Checklist consists of questions you should ask about the policy you are working with, and helps you know if the policy reflects the values and approaches of the new paradigm. These questions ask:

- Is a certain component present?
- Are certain activities happening?

When these questions are compiled all together, the answers to the checklist questions can tell us which components of the “Disability Policy Framework” are in place and which ones are missing.

**TABLE 1.**

*Checklist questions to ask ourselves when looking at a policy to see which components of the Disability Framework are in place and which are missing.*

<b>Disability Policy Framework Checklist</b>	<b>The questions to ask yourselves</b>
A. History	Do we know the history?
B. Core Precept 1. Disability natural part of human experience. 2. Fix environment, not individual	Are we addressing the core precept in our change efforts?
C. Four Goals of Disability Policy 1. Equality of Opportunity	Are the decisions based on the individual?  Does the plan provide meaningful opportunity for all?  Do people need to be segregated to receive public benefit?
2. Full Participation	How are people with disabilities involved in decisions that affect their lives?  How are people with disabilities involved at the policy level?

**TABLE 1.** (continued)

<b>Disability Policy Framework Checklist</b>	<b>The questions to ask yourselves</b>
3. Independent Living	Does the system support independent living?
4. Economic Self- Sufficiency	Does the system support work? Are there work incentives
D. General Administration	Does the plan respond to peoples’s needs?

Examine **TABLE 1** and notice each of the questions pertaining to the sections Bobby Silverstein talks about. These questions are key as you look at policies you are interested in to determine if all of the components are in place.

### **Methods of Administration**

In this course so far you have learned, according to Bobby, “only half” of what you need to know in order to advocate effectively for people with disabilities. Why does he say that? Because while the history, core precept, and four goals are important, what we really care about is implementation—are the policies working or making a positive difference in the community? Bobby calls this other part “methods of administration.”

Do the principles really guide behavior? Paying attention to the methods of administration means that you need to find out if the programs or rules are responding to the needs of people with disabilities or are they instead responding to the needs of the bureaucracy or the historical administrative structure? Do the laws work as intended? Are they having a positive effect for people with disabilities?

The Americans with Disabilities Act (ADA) is an example of a law that reflects the core precept and the four goals of disability policy. The ADA is intended to ensure that people with disabilities are treated fairly. The U.S. Supreme Court ruled in the *Olmstead* decision that one state was violating the ADA. And it was a warning to all states that they need to pay attention to the Equality of Opportunity principle.

### **The ADA (Americans with Disabilities Act)**

The Americans with Disabilities Act (ADA) was a huge breakthrough for persons with disabilities. The *Olmstead* decision is based on the ADA.

In 1990, President George H.W. Bush signed the ADA into law. Title II of the ADA prohibits state and local governments from discriminating against people with disabilities in the provision of public benefits and services (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).

The regulations implementing the ADA state: A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. (28 C.F.R. § 35.130(d))

The regulations defined the “most integrated setting” as “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.” (28 C.F.R. pt. 35, App. A, p. 450)

Advocates were able to use the Americans with Disabilities Act to challenge states that would only provide extensive care and supports in institutions. This meant that the only options for people with disabilities were to live in segregated settings. Advocates argued that states were not following the law because they were only providing services in segregated settings. One of these challenges—*Olmstead vs. L.C.*—went all the way to the Supreme Court.

### **Application and Discussion**

1. If “segregate” is the opposite of “integrate,” what does “segregate” mean?
2. Think of situations in which people with disabilities have been segregated. Have you ever experienced segregation?

Read more about the ADA in Appendix A: The ADA and Other Examples of Major Federal Legislation that Contain the Disability Policy Framework.

## SESSION NINE: Background on the Olmstead Decision

The story begins with two women, Lois Curtis and Elaine Wilson, who lived in an institution in Georgia and who wanted to move into their own homes. Lois and Elaine were people with disabilities and the State of Georgia said it would be too expensive for the state to support them to live in the community. Lois and Elaine sued the state, and eventually the highest court in the land heard their case.

In this session you will learn about an important U.S. Supreme Court decision known as *Olmstead vs. L.C.* that was made in June of 1999. The *Olmstead* decision has the potential to make a huge difference in the choices that people with disabilities make to live in the community.

You will listen to Lois and Elaine tell some of their story and the challenges they faced. You will listen to an audio recording of an interview conducted by Richard Petty of ILRU (Independent Living Research Utilization) in June 2001. Hearing their story will help you to better understand the U.S. Supreme Court decision, *Olmstead vs. L.C.*

### Lois and Elaine (The Background)

*In order to gain a better understanding of the interview, first read the biography of Lois Curtis and Elaine Wilson.*

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#### Bio

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### Biography: Lois Curtis and Elaine Wilson

Lois Curtis and Elaine Wilson, two women with disabilities who lived in a Georgia state hospital, asked state officials to allow them to move into their own homes in the community. After the state's refusal, Atlanta Legal Aid attorney Susan Jamieson filed a lawsuit on behalf of Ms. Wilson and Ms. Curtis. In the lawsuit, they again sought to have the State of Georgia allow the two hospital residents to live in the community. After appeals the U.S. Supreme Court heard the case.

The two Georgia women with disabilities (mental retardation and mental illness) claimed that living in a nursing home deprived them of their rights under the Americans with Disabilities Act (ADA) to live in an integrated community setting.

[For more information on the ADA see Appendix A: The ADA and Other Examples of Major Federal Legislation that Contain the Disability Policy Framework.]

Lois and Elaine argued that they had a right to receive services in a community-based setting under Title II of the ADA. The law requires public entities to provide their services “in the most integrated setting appropriate to the needs of qualified

individuals with disabilities... [that] enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”

The state argued that Lois and Elaine were placed in state-run institutions to obtain needed services. Physicians for the women disagreed, stating they could receive appropriate services while living in the community.

In July 1999, the Supreme Court issued the *Olmstead vs. L.C.* decision. The Court ruled in favor of Lois and Elaine, affirming that where individuals live must be appropriate to their needs and can include home and community-based arrangements. The Court noted that institutionalizing a person with a disability, who wants to live in the community and can benefit from it, is discriminatory.

### **Interview**



*Play the audio clip: “Interview with Lois and Elaine” (6 minutes).*

### **Application and Discussion**

1. What did Lois and Elaine want so much that they went to court to get it?
2. Do you know people like Lois and Elaine in your community? Where do they live?
3. What are Lois and Elaine’s lives like now? What advice do they give?

## SESSION TEN: Olmstead Decision —What It Says



### What the Decision Says: Victory

On June 22, 1999, the United States Supreme Court held in *Olmstead vs. L.C.* that the unnecessary segregation of individuals with disabilities in institutions may constitute discrimination based on disability. The court ruled that the Americans with Disabilities Act may require states to provide community-based services rather than institutional placements for individuals with disabilities.

The decision is a victory in several ways because it supports the following:

- **Most integrated setting:** It upholds the U.S. Department of Justice’s regulations, which mandate that a state must administer its programs in the most integrated setting appropriate to the needs of individuals with disabilities.
- **Unjustified isolation:** It states that unjustified isolation is considered discrimination under the ADA.
- **Secure community living opportunities:** It recognizes that Congress intended the ADA to continue earlier efforts in the Developmental Disabilities Act and Rehabilitation Act to secure community living opportunities for people with disabilities. [Advocacy and Protection, 2001]

For more information on these federal laws, see Appendix A: The ADA and Other Examples of Major Federal Legislation that Contain the Disability Policy Framework.

### Requirements

Rather than merely affirming (agreeing with) the lower court’s decision, the Supreme Court put a number of requirements on the states when they place individuals in the community. Specifically, the Court held that a state:

- **Must provide services in a fair and equal manner:** A state must consider the cost of providing community-based care to individuals, and the range of services the state provides to others with mental disabilities. The state has an obligation to provide those services in a fair and equal manner.
- **May rely on assessments of its own professionals:** A state may generally rely on the reasonable assessments of its own professionals in determining whether an individual meets the eligibility requirements for a community-based program (see For More Information at the end of this module).

- Is protected by law if meets requirements: A state that has a comprehensive working plan for placing persons with mental disabilities in less restrictive settings, and a waiting list that move[s] at a reasonable pace, is protected in a lawsuit.

### **Application and Discussion**

1. Why would living in an institution be considered “isolating”?
2. Does the *Olmstead* decision mean that everyone living in an institution can immediately move to the community?
3. Why is having a working *Olmstead* plan important for a state?

## SESSION ELEVEN: Olmstead Decision —What It Means-1



### What the Decision Means

According to ADAPT (American Disabled for Attendant Programs Today), a grass-roots advocacy organization, the *Olmstead* decision changed the debate from “should people with disabilities live in the community?” to “how to integrate people with disabilities into the community?”

The Supreme Court laid out the “roadmap” that states must follow to develop their integration plans. To comply with the *Olmstead* ruling, states must show they have comprehensive and effective plans for placing qualified individuals with disabilities in less restrictive settings. Beyond that, they must show that waiting lists move at a reasonable pace and are not influenced by attempts to keep institutions fully populated.

“The Supreme Court construed Title II of the ADA to require states to place qualified individuals with mental disabilities in community settings, rather than in institutions...”

### New Freedom Initiative

On February 1, 2001, President George W. Bush announced his New Freedom Initiative to promote the full integration of people with disabilities into all aspects of American life. The goals of this comprehensive plan include expanding educational and employment opportunities; increasing access to assistive technologies and public accommodations; and providing accessible transportation and housing options for individuals with disabilities.

In June 2001, President George W. Bush signed the *Olmstead* Executive Order saying that, “the Supreme Court construed Title II of the ADA (Americans with Disabilities Act) to require states to place qualified individuals with mental disabilities in community settings, rather than in institutions when:

- Treatment professionals determine that such placement is appropriate
- The affected persons do not oppose such placement
- The state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities.”

This executive order paved the way for states to do exactly what the Supreme Court ruled they should do.

The *Olmstead* decision applies to people with all types of disability—not only to people with mental disabilities (intellectual and/or psychiatric disabilities), such as Lois and Elaine. The ruling applies to any person with a disability who meets the requirements for living in an institution. Thus, people with physical disabilities,

sensory impairments, or other disabilities - who meet the care requirements of a nursing home or similar institution - are covered by the *Olmstead* decision.

### **“At Risk” Issue**

Some states interpret the *Olmstead* decision to cover those “at risk” of institutionalization. If individuals might, at some time in the future because of the nature of their disability, need more intense services than they could be considered “at risk” of needing an institutional level of care. For example, an individual with a disability living at home with adequate supports today might be at risk for institutional placement in the future. While there have been some interpretations from federal agencies and courts that support this position, it is not a consensus and a few states are going to court over the “at risk” issue.

*Olmstead* upholds the integration mandate of the ADA. The Court affirmed the right of individuals with disabilities to receive public benefits and services in the most integrated setting appropriate to their needs. The Supreme Court noted that unnecessary segregation and institutionalization constitute discrimination and violate the Americans with Disabilities Act (ADA) “integration mandate.” The decision presents new opportunities for expanding community-based services and supports for people with disabilities.

In the next audio clip, Bob Williams, former Deputy Assistant Secretary for Aging Disability and Long-Term Care, talks about what the *Olmstead* decision can mean. Read Bob’s biography and then play the audio.

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## **Bio**

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### **Biography: Bob Williams**

On July 23, 1998—the third anniversary of the Americans with Disabilities Act — Bob Williams became the first American with a significant disability to be appointed the Commissioner of the Administration on Developmental Disabilities in the Department of Health and Human Services. He later became the Deputy Assistant Secretary for Disability, Aging, and Long-Term Care Policy under Health and Human Services Secretary, Donna Shalala.

Bob Williams was born with cerebral palsy in Connecticut, about five miles from the state institution. Because he had parents, brothers and sisters, family and friends who believed in him, he never spent a day in the state institution until he volunteered with the Connecticut ARC to help prepare the lawsuit that closed it down. Since that time, Bob Williams has contributed significantly to the development of home and community services. He uses a communication device to express his ideas when he presents his recommendations to the Administration or talks about home and community services to groups of policymakers and advocates, as in the audio clip accompanying this manual.



***Play the audio clip: “Vision for the Future” (2 minutes).***

*When finished, proceed to the exercises below.*

### **Application and Discussion**

1. Why does Bob Williams say that the ADA and Medicaid are “polar opposites”?
2. Why does he encourage people with disabilities and the aging community to “sit down together”?
3. What does he say is one of the most important things the decision does?
4. How will aging Baby Boomers be different from previous generations?
5. Why does he see this as a resource?

## SESSION TWELVE: Olmstead Decision—What It Means-2

### The Decision's Name

In this session you will read an article from Georgia's Macon Telegraph and see some of Olmstead's comments on the decision that bears his name.

In order to understand who Tommy Olmstead is, read the biography, then the article, and proceed to the exercises following the article.

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### Bio

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#### Biography: Tommy Olmstead

Tommy Olmstead was the Commissioner of the Georgia Department of Human Services. In that position, he represented the State of Georgia in Lois and Elaine's lawsuit against the State.

Article: Georgia Lags in Responding to *Olmstead* Decision by Don Schanche Jr., Telegraph Staff Writer March 30, 2003

In a battle that is building all over Georgia and the nation, one man's name has become a rallying cry: Tommy Olmstead.

When a crowd of people demonstrated Wednesday in Macon on behalf of people with disabilities, many carried signs bearing a mysterious phrase: "Implement Olmstead Now."

Translation: Release people who are unnecessarily confined in state hospitals and nursing homes.

Olmstead's name turns up everywhere these days in the "disabilities community."

It comes up in connection with every person with disabilities who wants to be released from a nursing home or hospital in Georgia. And the name "Olmstead" is now known in all 50 states, where government officials are busy doing something called "Olmstead Planning," for the release of unnecessarily institutionalized people.

The Bibb County Commission chairman's name comes up because he was a defendant in a lawsuit while he was commissioner of the Georgia Department of Human Resources from 1995 until 1999.

In 1995, Lois Curtis and Elaine Wilson sued for the right to be released from Georgia Regional Hospital in Atlanta, where they had been treated for

psychiatric disorders. In 1999, the nation's highest court said that unjustified isolation of people with disabilities inside institutions is discrimination based on disability — a violation of the Americans with Disabilities Act.

The court didn't call for the abolition of institutions for people with disabilities, and acknowledged that states must have some leeway to work within their budgets. But it established a disabled person's legal right not to be locked in an institution if there is a way to serve that person in their home outside the institution's walls.

“Georgia in 1978 was 7th or 8th in the country for community funds and now we're 50th.” ~Joyce Ringer

Olmstead's name represents a state's unwillingness to acknowledge that right, as well as the legal obligation to do so.

Some wish there were a different name on the case. “I prefer to call it ‘Lois and Elaine's case,’” said Joyce Ringer, executive director of the nonprofit Georgia Advocacy Office, which speaks up on behalf of people with disabilities.

“I have to laugh about it,” Olmstead said last year. “My name's there because I was commissioner of DHR. If Joe Dokes was commissioner, his name would be there.”

But it is Olmstead's name that stuck. And in a way he never anticipated, the *Olmstead* case may turn out to be Tommy Olmstead's most pervasive legacy.

The *Olmstead* Decision has become as significant for people with disabilities as “Brown v. Board of Education” was for the civil rights movement.

“It is seen as the Emancipation Proclamation for people with disabilities,” says Eric Jacobson, executive director of the Governor's Council on Developmental Disabilities.

According to a recent report from the National Conference of State Legislatures, “As 2002 ended, the vast majority of states were engaged in structured planning efforts around *Olmstead*. Most states have published their plans or information on their ongoing planning processes on the Internet.”

Many advocates believe Georgia lags behind on *Olmstead* planning because the interests that support nursing home and state hospitals have strong, long-

standing political power here. “Georgia in 1978 was 7th or 8th in the country for community funds and now we’re 50th,” Ringer said. “That really shows the power of the nursing home and institution lobby.”

Georgia’s sluggish pace in implementing the *Olmstead* Decision prompted the GAO, Atlanta Legal Aid and several other advocate groups to file a complaint in 2001 with the Office of Civil Rights in the U.S. Department of Health and Human Services.

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## **Application and Discussion**

1. What does the reporter say that Olmstead's name represents?
2. What do some advocates prefer to call the case?
3. What do you think it should be called?
4. What do Georgia advocates believe is the reason that the state has not implemented *Olmstead* planning?
5. Do you know how much your state pays to institutions and how much is spent on providing services in the community? How can you find out?

## SESSION THIRTEEN: Role of CILs and “Fifth Core Service”

### The Role of Independent Living Centers

Many people in the independent living movement believe that centers can and should play a leading role in assisting people to live in the community and helping people leave institutions.

Read Mike Oxford’s biography below and listen to him as he describes the role centers can play.

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#### Bio

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#### Biography: Mike Oxford

Mike is the Executive Director of Topeka Independent Living Resource Center, Inc. and was the President of the National Council on Independent Living (NCIL). He is a leader in ADAPT and is committed to “freeing our people” from nursing homes and institutions.



***Play the audio, “Where I Got Started” (6 minutes).***

*When finished, proceed to the exercises below.*

#### Application and Discussion

1. What do many people in the independent living movement believe should be the “fifth core service”?
2. What is your center or organization doing to keep people out of institutions/nursing homes or moving people out of institutions/nursing homes?
3. Can you think of other ideas that you can implement in your community? Make sure to put down everything you can think of. Each idea can generate more.
4. What organizations in your community can you partner with in these activities? For example, UCP, ARC, PTC, etc. What perspectives do they bring?

## **SESSION FOURTEEN: Advocacy Plan**

### **An Advocacy Plan**

This session will help you understand how to apply the knowledge you gain throughout these sessions to real world problems of interest to you.

The Disability Policy Framework lays the groundwork for advocating for better quality of life for individuals with disabilities. The sessions that follow will describe the U.S. Supreme Court decision, known as *Olmstead vs. L.C.*, and its implications for people with disabilities living in the community. In order to tie all the sessions together and enable you to integrate what you have learned; we encourage you to develop an advocacy plan based on an issue or problem you see or experience. Identify a problem or issue relating to a person with a disability that you want to change. This issue may be the goal you wrote down in Session 1 of this course. The following planning model will provide guidance for you as you work on your advocacy goal(s).

### **Four Steps**

There are four steps to constructing an advocacy plan in this planning model. The four steps are: 1) Take stock, 2) Set goals, 3) Develop strategies and take action, and 4) Document progress. These steps can be repeated as many times as necessary to reach a goal.

1. **Take stock:** Review the situation. Find out what has led to the problem or issue. Identify what action may have been taken previously and what the results were. Bobby Silverstein recommends taking time to “understand the history,” which refers back to the checklist question, “Do we know the history?”
2. **Set goals:** Identify a specific and measurable outcome that you would like to see happen. Specify goals that are consistent with the core precept (disability is a natural part of human experience; and fix the environment). The more specific the goal, the easier it will be to measure progress. A broad, long-term goal can be broken into smaller steps to better understand and illustrate the planning model.
3. **Develop strategies and take action:** Decide what action to take. Identify the approach you will use to solve the problem and take action. Develop strategies that are consistent with the four goals of Disability Policy (Equality of Opportunity, Full Participation, Independent Living, and Economic Self-Sufficiency).

4. Document progress: Record the results of the actions that were taken. Are your methods effective? Remember, implementation is what is important. By reviewing the progress that you have documented, you are again “taking stock” of the situation to decide if the actions are bringing you closer to your goal. If progress has not been made, repeat the steps of the planning cycle with new, improved strategies until the goal is completed.

### **Example**

The following is an example of how to develop and advocacy plan.

Advocacy Goal: Assist Joe in obtaining transportation in the community to go to work.

Take stock: Joe lives in an apartment one block from Main Street. There is a public bus system in his city, but there are not enough accessible buses on every route. Joe has an opportunity for a job across town, but he must take the public bus system to get there.

Set goals: Joe’s advocates want to get an accessible bus route on Main Street so Joe can take the bus to work. They have set the goal to persuade the public Transit Authority to schedule accessible buses along Main Street, at least during commuter times when Joe is traveling to and from work.

Develop strategies and take action: Joe and his advocates decide on some action steps consistent with the four goals of disability policy that they need to take to work toward their goal: a) Find out the process used by the public bus system to determine accessible routes. b) Attend the Transit Authority’s advisory committee that discusses transportation for people with disabilities. c) Write letters to the Transit Authority general manager about the need for an accessible route on Main Street.

Document progress: Joe and his advocates meet to review their efforts, record the results of each of their actions. Are the authorities responding to the requests? If so, are these actions that have been implemented responding to Joe’s needs? This action takes them back to the first step of “taking stock,” which may then lead to the rest of the steps. After they take stock, they will see how they may need to change the goal and develop alternate strategies, etc.

## **Application and Discussion**

5. Review the goal you wrote at the beginning of this course. Discuss how this goal may be related to public policy.

Scenario: John is in an institution and wants out. He has cerebral palsy and needs support for eating, toileting, and bathing. He used to hold a job as a telemarketer and could still make calls with the correct equipment. List some of the barriers you may face in advocating for John. These courses will assist you in developing a strong plan for addressing the barriers and challenges you may face in advocating for John.

## SESSION FIFTEEN: Summary and Preview of Course Two

### Beyond Olmstead—What’s Next

In this course you have learned about the views of the old paradigm of disability policy. In the new paradigm you learned about the two concepts of the core precept which are that disability is a natural part of the human experience and the approach is to fix the environment and not the individual. You also heard Bobby Silverstein explain the four Goals of Disability Policy which are: One: Equality of Opportunity, Two: Full Participation, Three: Independent Living, and Four: Economic Self-Sufficiency.

To go along with these principles, you were given checklist questions to help you decide if methods of administration of programs are working and are strong in all of these areas.

You learned that the Americans with Disabilities Act reflects all of the four goals of disability policy, and is the law that forms the basis for the U.S. Supreme Court’s *Olmstead* Decision.

You have read about the background on the *Olmstead* decision where Lois Curtis and Elaine Wilson were denied the right to live in their own homes in the community. A lawsuit was filed and eventually the case went all of the way to the Supreme Court. The Supreme Court ruled in favor of Lois and Elaine, affirming that where individuals live must be appropriate to their needs and can include home and community-based arrangements.

The *Olmstead* decision says that the unnecessary segregation of individuals with disabilities, in institutions, may constitute discrimination based on disability. This means that the Supreme Court laid out the “roadmap” which states must follow to develop their integration plans which also means that independent living centers and you can benefit from these requirements in developing advocacy plans.

You also learned from Mike Oxford, the Executive Director of Topeka Independent Living Resource Center, Inc., on how centers for independent living are working to help people get out of nursing homes and live in the community.

You were presented with an approach to developing an advocacy plan that will assist you to help people with disabilities achieve their goals for living in the community.

As you complete the course, you have increased your knowledge of how the goals of disability policy are being implemented in your community—and how you can advocate and ensure that your particular goals can be achieved.

## Summary Application

1. Return to your notebook entry for session 1. Have your goals changed during the course? Either create an advocacy goal or select one of the goals you originally wrote down in session 1. Write down your primary advocacy objective and address the following questions.
2. You have learned about four steps in developing and implementing a plan successfully. Also Bobby Silverstein provided a checklist of questions we should ask about our own issue of advocacy. Using these two resources for developing and measuring the advocacy plan, answer the following questions:
  - a. For your advocacy goal, take stock—review the situation. Find out what has led to the problem or issue.

Identify actions that may have been taken previously and what the results were. Bobby Silverstein recommends taking time to “understand the history.” This is the background of the problem I have selected for my advocacy plan:

- b. Set goals—identify a specific and measurable outcome that you would like to see happen.

These are smaller steps that will lead to the accomplishment of your main advocacy goal. Specify goals that are consistent with the core precept (disability is a natural part of human experience; and fix the environment not the person). The more specific the goal, the easier it will be to measure progress. A broad, long-term goal can be broken into smaller steps to better understand and illustrate the planning model. These are the specific goals of my advocacy plan:

- c. Develop strategies and take action—decide what action to take.

Identify the approach you will use to solve the problem and take action. Develop strategies that are consistent with the four Goals of Disability Policy. These are my strategies:

- d. Document your progress—Evaluate your results

Identify how you will know if you have achieved your goals. What will you observe if you are successful?

## **Appendix A: Information on the Americans with Disabilities Act**

## **Appendix A: Information on the Americans with Disabilities Act**

### The ADA: A Major Piece of Federal Legislation that Reflects the Disability Policy Framework

The ADA (Americans with Disabilities Act), is an example of a major piece of legislation that reflects the disability policy framework. The ADA is a federal civil rights law designed to prevent discrimination and enable individuals with disabilities to participate fully in all aspects of society. The ADA was passed by Congress and signed by the President in July 1990.

*<http://www.usdoj.gov/crt/ada/publicat.htm#Anchor-14210>*

The ADA recognizes the history of treatment of people with disabilities

The first part, the Findings section, states the reasons that Congress passed the law. This section describes problems that the law is intended to address. For example:

“Historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem.”

It also states:

“Individuals with disabilities have been...subjected to a history of purposeful unequal treatment and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.”

### **The ADA states the four goals of disability policy**

The goals of the law are stated as follows:

“The Nation’s proper goals regarding individuals with disabilities are to assure:

1. Equality of opportunity
2. Full participation
3. Independent living, and
4. Economic self-sufficiency for such individuals.”

The ADA reflects the new paradigm that disability is a natural part of human experience, and the solution is to fix the environment, not the person.

**The law has five major sections that address:**

1. Employment
2. State and local government services including public schools and public transportation
3. Public accommodations and services operated by private entities
4. Telecommunications
5. Miscellaneous provisions

Throughout the law, the focus is on how to “fix the environment” to eliminate discrimination and level the playing field to allow people with disabilities to participate in and contribute to society. The ADA relies on the concept of “reasonable accommodation” under the employment provisions (Title I), which is a legal term for fixing the environment.

To be protected by the ADA, a person must be a qualified person with a disability. For example, under the employment section, “a qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job” in question.

**Reasonable accommodation may include, but is not limited to:**

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position.
- Acquiring or modifying equipment or devices, adjusting modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

To read the full text of the ADA, visit the following website:

*<http://www.access-board.gov/ada-aba/index.htm>*

## **Appendix B: Methods of Administration**

## **Appendix B: Methods of Administration**

On the tape in Course One Bobby Silverstein described the four goals of disability policy. He wants you to understand the goals, but says that the goals are “only half” of what is important. He uses the phrase “methods of administration” to refer to components of laws and procedures that affect how a policy is carried out or implemented. Here is Bobby’s list of components for assessing methods of administration.

### **Methods of Administration - Bobby Silverstein’s Checklist for Administration:**

1. State and local plans
2. Monitoring and enforcement by government agencies
3. Personnel development
4. Procedural safeguards for individuals, their families, and representatives
5. Accountability for results (outcome measures)
6. Representation at individual and systems levels
7. Single line of responsibility, coordination, and linkages among agencies
8. Service coordination (case management)
9. Financing service delivery
10. Privacy, confidentiality, access to records, and informed consent
11. Responsiveness to cultural diversity
12. Financial management and reporting
13. Support for improving program quality (system change initiatives, research)

### **Examples of Checklist questions**

Bobby implies that what really matters is not only what is written down, but how people act on those written words. Do these laws improve the lives of people with disabilities? That is the important question. Below are three examples of methods of administration and how they may affect an individual’s services. You will see examples of Checklist questions to determine if these components are present in a policy or program.

## **Monitoring and Enforcement by Government Agencies**

Laws don't mean much without anyone to enforce them. If there are no highway patrol officers to enforce highway speed limits, do you think most people would obey them? Disability laws must be enforced just like any other laws. To be effective, laws must have people in outside agencies watching for compliance and taking legal action if they are not followed.

√ Checklist question: What agencies are charged with monitoring and enforcing the policy?

## **Procedural Safeguards for Individuals, Their Families and Representatives**

This means you can appeal decisions that you don't like. You don't have to settle for what a service worker says you can or cannot get. Appeal mechanisms are "procedural safeguards" and allow you to ask for other persons to review the decisions that were made about you or your services.

√ Checklist question: Does the program have a system for appealing decisions that the consumer or family member or representative does not like?

## **Financing Service Delivery**

Follow the money! Traditional financing approaches often favor existing programs or institutions. The financing of services has a big impact on whether individuals have flexibility and choices that meet their needs. How are the services paid for? Does the program allow individuals with disabilities to decide what services are purchased for them?

√ Checklist question: Does the system of financing maintain existing programs or institutions? Does it allow for flexible service delivery?