

FACT SHEET

Virginia's Settlement Agreement with the U.S. Department of Justice (DOJ) and Proposed Plan to Implement the Terms of the Agreement

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Overview

In August 2008, DOJ initiated an investigation of Central Virginia Training Center (CVTC) pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA). In April 2010, DOJ notified the Commonwealth that it was expanding its investigation to focus on Virginia's compliance with the Americans with Disabilities Act (ADA) and the U.S. Supreme Court *Olmstead* ruling. The *Olmstead* decision requires that individuals be served in the most integrated settings appropriate to meet their needs consistent with their choice. In February 2011, DOJ submitted a findings letter to Virginia, concluding that the Commonwealth fails to provide services to individuals with intellectual and developmental disabilities in the most integrated setting appropriate to their needs.

In March 2011, upon advice and counsel from the Office of the Attorney General, Virginia entered into negotiations with DOJ in an effort to reach a settlement without subjecting the Commonwealth to an extremely costly and lengthy court battle with the federal government. On January 26, 2012, Virginia and DOJ reached a settlement agreement. The agreement resolves DOJ's investigation of Virginia's training centers and community programs and the Commonwealth's compliance with the ADA and *Olmstead* with respect to individuals with intellectual and developmental disabilities.

Target Population

The target population under this agreement is individuals with a developmental disability who meet any of the following additional criteria: (1) Currently reside at any of the training centers, (2) Meet the criteria for the Intellectual Disability (ID) waiver or Developmental Disability (DD) waiver wait lists, or (3) Currently reside in a nursing home or ICF.

Addition of Waiver Slots and an Individual and Family Support Program

Virginia will create 4,170 waiver slots for the target population by June 30, 2021, according to the following timetable:

State Fiscal Year	Individuals in Training Centers to Transition to the Community	ID Waiver Slots for Individuals on Urgent Wait List	DD Waiver Slots for Individuals on Wait List
2012 ¹	60	275	150
2013	160	225*	25**
2014	160	225*	25**
2015	90	250*	25**
2016	85	275	25
2017	90	300	25
2018	90	325	25
2019	35	325	25
2020	35	355	50
2021	0	360	75
Total	805	2915	450

1. These FY2012 slots have already been funded and assigned to individuals.

*25 slots each year are prioritized for individuals less than 22 years who reside in nursing homes or large ICFs.

**15 slots each year are prioritized for individuals less than 22 years who reside in nursing homes or large ICFs.

Also, in accordance with the settlement agreement, Virginia will create an individual and family support program for individuals in the target population who are not receiving services through the ID or DD waiver, and have limited access to needed services through the Elderly or Disabled with Consumer Direction (EDCD) waiver or the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program. The schedule of individuals supported on an annual basis is below:

State Fiscal Year	Individual and Family Support Program
2012	0
2013	700
2014	1000
2015	1000
2016	1000
2017	1000
2018	1000
2019	1000
2020	1000
2021	1000

Crisis Services and Crisis Stabilization

Virginia will develop a statewide crisis system for individuals with intellectual and developmental disabilities. The system will be community-based and available to support individuals experiencing crises and their families 24 hours a day, 7 days per week.

Mobile crisis teams will be established to respond to individuals in their homes and community settings and offer assessments for services, support, and treatment to de-escalate the crisis for up to 3 days.

The mobile crisis teams will be established using the following schedule:

- At least one team in each Health Planning Region to respond to on-site crises within 3 hours by June 30, 2012;
- At least 2 teams in each Region to respond to on-site crisis within 2 hours; and
- A sufficient number of teams in each Region to respond to on-site crisis within one hour in urban areas and 2 hours in rural areas.

Crisis stabilization programs will be established to provide crisis respite to individuals who cannot be assisted in their

own homes or other community settings by the mobile crisis teams. Crisis stabilization programs will have no more than 6 beds and lengths of stay will not exceed 30 days.

By June 30, 2012, at least one crisis stabilization program will be established in each Region. By June 30, 2013, Virginia must ensure there is sufficient capacity in each Region to meet the needs of the target population.

Supported Employment and Integrated Day Activities

An Employment First Policy will be established in Virginia. DBHDS will have at least one employment service coordinator to monitor implementation of Employment First practices. Within 6 months of the effective date of the Agreement, an implementation plan will be developed to increase integrated day opportunities, including supported employment, for individuals in the target population.

Community Living Options

Within one year of the Agreement, the Commonwealth will develop a plan to increase independent living options for the target population. The plan will be developed by a dedicated DBHDS housing service coordinator and in coordination with DMAS, VBPD, VHDA, DHCD, and other organizations as appropriate. Virginia will also establish a one-time fund of \$800,000 to provide and administer rental assistance in accordance with the plan referenced above.

Regional Support Teams, Community Resource Consultants, Community Integration Managers

Virginia will establish 5 Community Integration Managers (CIMs), one at each training center, to oversee and monitor discharge processes and provide technical assistance as needed. The CIM will provide assistance in resolving barriers to discharge or make recommendations to the training center, individual, or Community Services Board (CSB) regarding community placements.

Community Resource Consultants (CRCs) in each Health Planning Region will provide assistance to resolve barriers to community placements for individuals in the community or on the wait list for services and ensure that placement is in the most integrated setting appropriate to individuals' needs and consistent with their informed choice.

Regional Support Teams (RSTs) will be established in each Health Planning Region to provide technical assistance and to make recommendations to CRCs and CIMs in the situations below. RSTs will be composed of professionals with expertise in serving individuals with developmental disabilities in the community. RSTs will be consulted when:

- A Personal Support Team (PST) is having difficulty identifying or locating a particular community placement, services and supports for an individual within 3 months of the individual's receipt of HCBS waiver services;
- The PST recommends the individual, who is currently residing in a small setting, be placed in a congregate setting with five or more individuals;
- The PST recommends an individual in any setting be placed in a nursing home or ICF;
- There is a pattern of an individual repeatedly being removed from his or her current placement;
- The PST continues to recommend placement in a training center; or
- The PST and CIM or CRC is unable to resolve barriers to community placement and believes external review is needed to identify additional steps that can be taken to resolve barriers.

Discharge Planning and Transition from Training Centers

By July 1, 2012, discharge plans will be developed for all individuals in training centers using a documented, person-centered planning and implementation process. The plan will be an individualized support plan for transition.

DBHDS will ensure that the PSTs, in collaboration with the CSB case manager, provide individuals and their authorized representatives with specific options for types of community placements, services and supports based on the individual's needs and desires.

DBHDS will ensure training center staff is educated about community services and supports to propose appropriate options to individuals, including development of training and information for training center staff about community options, the provisions of the Agreement, and any departmental instructions related to the discharge process.

The following timelines will be applied to the discharge process:

- Within 30 days of admission, a discharge plan will be developed;
- For those residing in a training center at the date of this Agreement, Virginia will ensure a discharge plan is developed within 6 months;
- Discharge plans must be updated within 30 days prior to an individual's discharge;
- Once an individual has selected a provider and the provider agrees to serve the individual, discharge will occur within 6 weeks; and
- Post-move monitoring will occur at a minimum of 30, 60, and 90 days following discharge.

Quality and Risk Management System

DBHDS will require all training centers, CSBs, and other community providers to implement risk management and quality improvement processes, including establishment of uniform risk triggers and thresholds.

Virginia will implement a real time, web-based incident report system and reporting protocol. The protocol will require staff to report any suspected or alleged incident of abuse or neglect as defined in Virginia Code § 37.2-100, serious injury as defined in 12 VAC 35-115-30, or deaths.

Virginia will collect data about individuals receiving services under this Agreement and analyze at least one outcome measure in the areas below. This action will include a subset of measures that CSBs and other community providers will be required to report to DBHDS on a regular basis either through CHRIS or through other mechanisms. Those measures include:

- Safety and freedom from harm;
- Physical, mental, behavioral health and well being;
- Avoiding crises;
- Stability in placements and living situations;
- Choice and self-determination;
- Community inclusion;
- Access to services; and
- Provider capacity.

DBHDS will establish Regional Quality Councils (RQCs) to meet quarterly and assess relevant data, identify trends, and recommend responsive actions for each Health Planning Region. RQCs will be comprised of individuals experienced in data analysis, residential and other providers, CSBs, individuals receiving services, family members, and others. The DBHDS Quality Improvement Committee, which will be established under the Agreement, will direct the RQCs work.

Within one year of the Agreement, case managers will meet a new standard that requires them to meet with certain individuals face-to-face at least every 30 days, including one visit at least every 2 months to certain individuals' places of residence, if the individual meets the following criteria:

- Receives services from providers who have conditional or provisional licenses;
- Has more intensive behavioral or medical needs as defined according to their Supports Intensity Scale (SIS) category;
- Has an interruption of service for the DD waiver of more than 30 days;
- Encounters a crisis or has multiple less serious crises within a 3-month period;
- Has transitioned from a training center in the previous 12 months; or

- Resides in a congregate setting of 5 or more individuals.

Within one year of the Agreement, the Commonwealth will develop a core-competency based training curriculum for case managers.

DBHDS will continue to conduct regular, unannounced licensing inspections of community providers. Within one year of the Agreement, DBHDS will begin more frequent licensure inspections of community providers who meet the following criteria:

- Have a conditional or provisional license;
- Serve individuals with intensive medical and behavioral needs as defined by the Supports Intensity Scale (an assessment instrument) category representing the highest level of risk;
- Serve individuals on the DD waiver who have interruption of service of more than 30 days;
- Serve individuals who have received crisis services for a serious crisis or have had several less serious crises occur within a 3-month period;
- Serve individuals who have transitioned from a training center within the previous 12 months; or
- Serve individuals in congregate settings of 5 or more individuals.

DBHDS will implement a statewide core competency-based training curriculum for all staff who provide services under this Agreement. The training will include person-centered practices, community integration and self-determination awareness, and required elements of service. The program will include adequate coaching and supervision of staff trainees.

DBHDS will implement Quality Service Reviews to evaluate the quality of services at the individual, provider, and state-wide level for a statistically significant sample of individuals receiving services under the Agreement. These reviews will include face-to-face interviews with individuals, professional staff, and other people involved in an individual's life.

Transition to Community-Based System

Virginia will provide a plan to the General Assembly to cease residential operations at four of Virginia's training centers. A base plan has been developed, that establishes a timeline for the closure of Southside Virginia Training Center in FY14, Northern Virginia Training Center in FY15, Southwestern Virginia Training Center in FY18, and Central Virginia Training Center in FY20. Southeastern Virginia Training Center will remain open at 75 beds. We will work with the legislative leadership to ensure that the plan is appropriately developed and responsibly implemented. State officials adhered to two overarching goals when considering these proposals and developing the base plan: 1) To ensure the agreement results in the best possible outcomes for Virginians with intellectual and developmental disabilities, and 2) To ensure the agreement and plan are fiscally responsible.

Independent Reviewer

Virginia and DOJ have jointly selected Donald Fletcher as an Independent Reviewer for this Agreement. The Independent Reviewer will conduct the factual investigation and verification of data and documentation to determine whether the Commonwealth is in compliance with the Agreement. The Independent Reviewer will conduct reviews in six months cycles with the first report due nine months after the effective date of the agreement.