



Toll free
877-399-4867

www.vor.net

Executive Director
Julie M. Huso
836 S. Arlington Heights Rd, #351
Elk Grove Village, IL 60007
605-370-4652 Voice
605-271-0445 Fax
Jhuso@vor.net

Dir. of Govt. Relations & Advocacy
Tamie Hopp
PO Box 1208
Rapid City, SD 57709
605-399-1624 Voice
605-399-1631 Fax
Thopp@vor.net

Washington, D.C.
Larry Innis
529 Bay Dale Court
Arnold, MD 21012-2312
410-757-1867 Voice/Fax
LarryInnis@aol.com

Integration or Isolation?

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Defining “Community” Beyond Bricks and Mortar

VOR calls on Congress to investigate the absurd federal policies which define “integration” and “community” so narrowly that peoples’ homes, good care, happiness and safety are threatened.

The Department of Justice’s (DOJ) regulations reasonably state that the Americans with Disabilities Act’s (ADA) “integration mandate” to requires that “individuals with disabilities interact with non-disabled persons to the fullest extent possible.”¹ Unfortunately, **DOJ and other federally-funded entities have enforced this “integration mandate” irrationally to mean little or no interaction with other disabled persons, even if that results in less interaction with non-disabled persons!** This approach violates the careful balance the Supreme Court reached in the Olmstead case, which interpreted the ADA to require community integration if people were capable of living in the community, but reserved the individual right to remain in congregate care and specifically recognized that some people needed such care. Sadly, the result of this ideological approach has been the forced removal of thousands of individuals with intellectual, developmental and other disabilities from true communities and into isolation.²

Why must disabled people endure a different standard of *community* than other populations and society in general? Seniors enjoy the companionship and shared interests in retirement communities and college students find community in dormitory living. In a similar situation involving people with hearing disabilities, the U.S. Department of Housing and Urban Development (HUD) is challenging a housing community in Arizona that was designed around the specific needs of deaf and hard-of-hearing seniors:

“Designed by a deaf architect to fit the needs of the deaf, its units have video phones and lights that flash when the phone or the doorbell rings. Wiring in common areas pipes announcements made through loudspeakers into residents’ hearing aids. The complex, meant to foster a sense of community among residents who use sign language to communicate and socialize, was . . .one that advocates for the disabled hoped would be a model for similar projects.” (“A Haven for the Deaf Draws Federal Scrutiny Over Potential Discrimination,” *New York Times* (April 28, 2013))

HUD is alleging federal discrimination on the grounds that the housing complex serves too many deaf and hard of hearing people and not enough people without hearing disabilities.

Congress must investigate and act. Integration policies are forcing many disabled people into isolation and dangerous situations and the blind fervor in which these actions are being pursued is frightening. **People with all types of disabilities – intellectual, developmental, autism, and hard of hearing – have been removed or face removal from their homes simply because they live with other disabled people:**

- ✓ **DOJ** has pursued 40 actions to enforce the ADA’s Integration mandate to require that “individuals with disabilities to interact with non-disabled persons to the fullest extent possible.” Most of these cases aim to close ICFs/IID or other facilities.

¹ *Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C.* (June 22, 2011) (citing, 28 C.F.R. pt. 35 app. A (2010)).

² See e.g., [National Association for the Deaf’s letter to the U.S. Department of Housing and Urban Development \(April 25, 2013\)](#) (“In a nutshell, your agency, HUD, is forcing deaf and hard of hearing individuals to only live according to an ideological vision of forced integration. **The tragic irony is that such an ideology has punished deaf and hard of hearing individuals seeking a higher quality of life and a safer place to live and has actually forced isolation of individuals**”)(emphasis added).

- ✓ **The HHS Centers for Medicare & Medicaid Services (CMS)** has proposed new regulations which, if adopted, will change how “community” is defined for people with I/DD in the Social Security Act’s [Medicaid Home and Community-Based Services \(HCBS\) programs](#) (see, [CMS-2249-P2](#), May 3, 2012). The proposed rule would require the HHS Secretary to begin with a “rebuttable presumption” that certain settings are *not* “community,” including homes on or near public and private facility campuses and “disability-specific housing complex[es].” This proposal threatens innovative housing complexes and planned communities for people with I/DD, autism, and other disabilities.
- ✓ The **National Council on Disability (NCD)** defines any home of 4 or more people as an isolated institution that should be closed (“*Deinstitutionalization: Unfinished Business*,” October 2012).

Case Studies: Real people are being impacted

Mary: “I’m not lonely anymore.” That is how Mary describes her new living situation. Mary has a hearing impairment and she resides in a subsidized housing complex with 69 other residents who are also deaf or hard-of-hearing.

Integrated or isolated?

According to HUD, Mary is isolated because she lives in close proximity to disabled people (*New York Times* (April 28, 2013)).

Mark has multiple disabilities, including autism, is prone to wandering out of his home but has little sense of danger and is prone to outbursts. His mother keeps buzzers around her home to keep Mark safe. “If he goes out of the door, then we and God and everyone else can hear it because it is so loud,” she said. “But it is exhausting. It is intensely stressful and it’s very exhausting.”

Integrated or isolated?

According to DOJ and some HHS agencies,³ Mark is integrated because he is surrounded by nondisabled people.

Brian, age 42, experiences dangerous behaviors. When living in his family home, he injured every family member and they replaced hundreds of windows. Brian was expelled from four community homes in two states before receiving appropriate care in a state-operated Medicaid-certified facility (“ICF/IID”).

Integrated or isolated?

The DOJ and DD Act programs support the closure of Brian’s ICF/IID home, calling it isolated because he shares his home with other disabled people, and instead support his return to a more “integrated” community where he would be with nondisabled people.

Conclusion

Although it is nearly impossible to develop a bright line rule for what constitutes “integration” versus “isolation,” our federal government persists in the implementation of a hard line rule relating only to the number of disabled people living in close proximity. **Such a narrow interpretation fails to appreciate the true community that exists in most specialized housing options for people with disabilities, as well as actual interaction with nondisabled people.** Many ICF/IID homes, for example, especially those in urban areas, have ratios as high as 4 volunteers to each resident. Other ICFs/IID share campuses with community groups, school groups, host special events, and otherwise open campuses to many visitors in any given day.⁴ In every way, these and similar housing arrangements for disabled people are integrated; they are “community.”

³ These HHS programs include the **National Council on Disability (NCD)**, and **Administration on Intellectual and Developmental Disabilities (AIDD)** and its Developmental Disabilities Act programs (Protection & Advocacy, DD Council and University Affiliated programs).

⁴ VOR believes that residences which are situated “in close proximity” to, or even on, ICF/ID campuses should not be penalized for a decision that can enhance integration as compared to some scattered housing sites which are isolated.