The American with Disabilities Act and *Olmstead v. L.C.*

The Integration Mandate: A state must administer services and programs, such as payment programs for long term care services, in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

The Legal Framework of the Integration Mandate:

- **Statute**. The Americans with Disabilities Act ("the ADA") prohibits discrimination against qualified individuals with disabilities in public service programs. 42 U.S.C. §§ 12131 and 12132.

- **Regulations.** Federal ADA regulations provide that governments must administer programs in the most integrated setting that is appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d).

- **The United States Supreme Court.** The United States Supreme Court held that "unjustified institutionalization" is a form of discrimination under the ADA. *Olmstead v. L.C.*, 527 U.S. 581, 597 (1999). However, the responsibility to provide community services is not boundless. Id. at 603.

- **The Integration Test.** The state is required to provide community-based services when: (1) the state's treatment professionals determine that such placement is appropriate; (2) the individual does not oppose the integrated setting; and (3) the placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with disabilities. Id. at 607. Reasonable accommodations would not fundamentally alter a program.

- ***Olmstead* Plan.** To assert a "fundamental alteration" defense, the state must establish a plan that adequately demonstrates a reasonably specific and measurable commitment to deinstitutionalization.

- **Enforcement.** United States Department of Justice. *See* "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.,*" http://www.ada.gov/olmstead/q&a_olmstead.htm (accessed July 10, 2014)