

Philadelphia City Council
Hearing on Employment Opportunities for People with Disabilities
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Thank you for taking up this important issue of employment for Philadelphians with disabilities. My name is Julie Foster. I am an Independence Fellow at the Public Interest Law Center of Philadelphia where I represent and advise low income individuals with disabilities on employment discrimination matters. The Public Interest Law Center of Philadelphia has long represented individuals with all kinds of disabilities, including visual, intellectual, deafness, and physical. Notably, the Public Interest Law Center has represented individuals with intellectual and developmental disabilities to move out of institutions into the community through closure of Pennhurst and Embreeville. The Supreme Court Olmstead decision was built around many of the cases we had tried. With that experience in mind, we are greatly concerned about the need for real employment and meaningful access to the community for Philadelphians with disabilities.

Only 22% of individuals with disabilities in Philadelphia are employed. Employment is essential for people with disabilities, as for all Philadelphians, to escape poverty. But employment is particularly important for people with disabilities. Employment is a key tool to gain independence, dignity, and to fully participate as a member of the community.

One major barrier to employment for people with intellectual disabilities and autism are challenges in accessing employment services. The first challenge is obtaining funding for services, which are principally provided through the Medicaid waiver system. Currently there are more than 14,000 people on the wait list for the Medicaid Person/Family Directed Support waiver. Second, the majority of those who do obtain Medicaid waiver funding end up in sheltered workshops or adult day programs where adults with intellectual, developmental and other disabilities spend their days segregated, with little to no interaction with nondisabled peers.

Such segregated settings violate the Supreme Court's interpretation of Title II of the ADA in Olmstead. The Court held that segregation constitutes discrimination, and that the ADA mandates the provision of services in integrated settings where appropriate. Yet 85% to 90% of Pennsylvanians with intellectual and developmental disabilities are receiving habilitation and vocational services in segregated settings. The most recent state-sponsored survey, the Independent Monitoring for Quality, found only 8% of respondents were employed in an integrated setting.

Last January, the Centers for Medicaid and Medicare Services (CMS) issued a regulation requiring services funded by the Home and Community Based Waiver be provided in integrated settings in compliance with Olmstead. The rule required states to submit a plan on how they would transition the provision of services to become compliant within five years.

Pennsylvania's Plan did not articulate any goals to increase supported employment services in the community. Philadelphia can lead the state in implementing an Employment First

policy. Direct, train, and support county service coordinators in prioritizing employment services for individuals receiving Medicaid waivers. Replace the default of dependency and segregation. Create a presumption in favor of competitive employment for all.

A second major reason Philadelphians with disabilities are excluded from the workplace is employment discrimination. The ADA and the Pennsylvania Human Relations Act prohibit employers from making employment decisions based on disability, and mandate employers provide reasonable accommodations for otherwise qualified individuals with disabilities. Successfully implementing reasonable accommodations requires a proactive engagement on the part of both the employer and the employee. In some instances employees do not clearly communicate their need for an accommodation, do not understand their rights to an accommodation, or fear retaliation. For example, one client nearly lost her job because she did not know how to request an ASL interpreter from her employer. Similarly, employers do not always understand their obligations or know about resources for accommodations in the workplace. Many of the cases I see could have been remedied ex ante by better communications, understanding of obligations, and access to resources.

Often workplaces are not accessible because an employer has not considered whether particular software or equipment is ADA compliant when acquiring it. Indeed, a common barrier to employment for people with visual impairments is inaccessibility of online job applications. As more of our work, lives, and commerce become digital, technological accessibility is paramount.

I call on City Council to take action to communicate resources and to mandate Philadelphia businesses are accessible to all. City Council can help centralize and communicate information on disability resources. Philadelphia already has a web page dedicated to disability issues, but it is focused on city services. This information hub could be expanded to provide information on disability and employment services available in Philadelphia. Council members can also communicate resources to citizens and employers through city block captains, local chambers of commerce, and the NextDoor neighborhood site.

City Council has a legislative opportunity to increase employment opportunities by addressing exclusion in Philadelphia businesses and organizations. First, City Council can mandate businesses operating in Philadelphia comply with web accessibility guidelines provided under Section 508 of the Rehabilitation Act. Too many individuals with visual impairments are excluded from the major daily activities of work, socialization, and commerce by inaccessible websites. Second, City Council can adopt and implement an Employment First policy, and commit to increasing the number of Philadelphians with intellectual disabilities and autism in competitive employment.