

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND**

**UNITED STATES OF AMERICA**

Plaintiff

v.

C.A. No 14-175

**STATE OF RHODE ISLAND**

Defendant

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**REPORT OF THE COURT MONITOR on Rhode Island  
CONSENT DECREE COMPLIANCE**

**Review Period: October 1, 2015 to October 31, 2016**

Issued: January 25, 2017

Respectfully Submitted

Charles Moseley Ed.D.  
U.S. District Court Monitor

## **Table of Contents**

|             |                                                 |           |
|-------------|-------------------------------------------------|-----------|
| <b>I.</b>   | <b>Executive Summary</b>                        | <b>3</b>  |
| <b>II.</b>  | <b>Introduction</b>                             | <b>8</b>  |
|             | A. Target Populations                           | 9         |
|             | B. Assessing Progress                           | 9         |
| <b>III.</b> | <b>Findings: Review of Progress</b>             | <b>10</b> |
|             | A. Outcomes                                     | 11        |
|             | B. Supported Employment Services and Placements | 11        |
|             | C. Integrated Day Services and Placements       | 16        |
|             | D. Career Developmental Planning                | 18        |
|             | E. Transition Planning for Youth                | 25        |
|             | F. Training                                     | 29        |
|             | G. Outreach, Education and Support              | 32        |
|             | H. Provider Capacity                            | 34        |
|             | I. State Agency Actions                         | 38        |
|             | J. Interagency Collaboration                    | 39        |
|             | K. Funding                                      | 39        |
|             | L. Quality Improvement                          | 43        |
|             | M. Data Collection and Reporting                | 45        |
| <b>VI.</b>  | <b>Concluding Comments</b>                      | <b>47</b> |

## I. Executive Summary

This second report of the Court Monitor documents the State of Rhode Island's progress on meeting the terms and conditions of the Consent Decree *U.S. v. State of Rhode Island*, Case No. CA14-175 during the period October 1, 2015 to October 31, 2016.<sup>1</sup>

The State made significant progress during the current review period, strengthening its focus on achieving compliance with Consent Decree outcomes and responding to two Orders issued by U.S. District Court Judge John J. McConnell Jr. in March and May 2016 to impel the State to complete overdue and unfulfilled requirements. The Court Order, dated May 18, 2016, identifies remedial actions the State must take across several critical areas related to increasing job placements, funding, data collection, performance based contracting, communication, policy and procedural change.

During the current review period the State took several steps to build its capacity to meet Consent Decree requirements hiring a new Consent Decree Coordinator in January 2016 and shifting reporting responsibilities from Behavioral Health Developmental Disabilities and Hospitals (BHDDH) to the Secretary of the Executive Office of Health and Human Services (EOHHS). In April, May, and June, the Legislature approved the Governor's recommendations for additional funding during FY 2017 targeted to DDD to support the expansion of integrated supported employment and integrated day service options for individuals with intellectual disabilities and individuals with developmental disabilities (IDD) consistent with the requirements of the Agreement. The additional dollars made it possible for DDD and ORS to develop incentives and began implementation of performance-based contracting systems called for by the Consent Decree. Resources to assist provider agencies shift their segregated facility based vocational and sheltered workshop programs to integrated supported employment were released from the Conversion Trust Fund to support provider reconfiguration. The FY 2017 budget also included designated funding to enable provider agencies to increase the salaries of direct support staff and job coaches. During the period June through October 2016 the State made tangible progress in its efforts to expand access to training by provider agency staff, improve data collection and information management, and strengthen program administration. The State also made significant improvements in its ability to gather, report, and manage performance and outcome data.

Several staffing changes affecting DDD took place during this review period. The Division added two staff positions that had been recommended by the Monitor; one to coordinate supported employment activities across provider agencies and a second to oversee the development and operation of the Quality Improvement Initiative required by the Consent Decree. In June and July, the department lost key administrative staff with the departure of the Director of BHDDH, the Director of DDD and the division's Chief Transformation Officer. EOHHS took steps to provide needed administrative leadership and coordination during this time by assigning existing staff to assist in DDD's system change activities, relative to the Consent Decree, and securing consultants to provide advice and guidance on several important areas of policy and program operations. A seasoned developmental disabilities professional with over 30 years experience in State IDD policy

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<sup>1</sup> The original review period for this report was from October 1, 2015 to June 30, 2016. Adjustments in the reporting schedule had to be made to take into account additional state activities and reporting requirements stemming from two orders issued by the U.S. District Court on March 3, 2016 and May 18, 2016.

and program management was brought on to provide temporary guidance, support and leadership to the DD system. A new Senior Strategy Officer was employed by EOHHS and assigned to fulfill the Transformation Officer role as the search for the new Division Director was undertaken. The EOHHS Deputy Secretary expanded her work with the Division to ensure ongoing activities continued following the departure of the former BHDDH Director and the appointment of the new director, Rebecca Boss.

Although progress was made in many areas, several important performance benchmarks remain to be reached. The number of individuals in the Youth Exit Target Population who have been placed in supported employment has not reached required benchmarks. Career development planning for target population members generally does not meet required standards, in terms of the numbers of individuals receiving plans and the quality of the plans that are in place. Individual benefits planning is not taking place as needed and occurs only in a minority of cases. The State's integrated day services do not meet required benchmarks and individuals remain in non-work programs without having received the option of applying for a variance, where appropriate. Additional efforts need to be directed to address the overdue development and implementation of a Quality Improvement initiative to provide ongoing assessment of the quality and responsiveness of services furnished by the State in accordance with this Agreement. Results and recommendations of an independent review of the State's progress on meeting Consent Decree provisions regarding quality improvement will be provided in a future report.

The following section highlights key findings with respect to the State's progress on meeting the terms, conditions and requirements of the over 50 performance related benchmarks included within the various provisions of the Consent Decree. Detailed descriptions of the actions that the State has taken along with a discussion of barriers, required activities and recommendations are provided in the Findings section of this report on page 10.

It is important to note that several performance benchmarks measure the State's ongoing compliance with required activities with goals that must be met during each reporting period.

### **Requirements Met**

- **Funding.** Additional funding was approved by the Legislature to address Consent Decree requirements for supported employment placements and DD system change activities during FY 2017.
  - o RIDE made an ongoing commitment of over \$300,000 per year for FY15, FY16 and FY17.
  - o ORS' employment services funding for Consent Decree Target Population members was tripled for the 2017 fiscal year over FY 2015 levels.
  - o Additional funding in excess of \$11,000,000 was included in the DDD budget to expand access to supported employment services by Target Population members with IDD.
  - o An additional \$5.1 million (\$2.5 million from general revenues and \$2.6 million Federal Match) was provided to boost compensation for private provider direct support staff.
  - o The State developed performance based contracting models and methodologies for incentivizing the expansion of employment services furnished by DDD and ORS.

- Human Resource Needs. EOHHS acted on the Monitor's recommendation and has begun to address shortages of needed expertise and management capacity.
  - o DDD added two positions critical to the Consent Decree to coordinate supported employment activities statewide and to oversee quality improvement. A third, Transformation Coordinator position was created to oversee system change activities. Currently, this position is filled by the EOHHS Senior Strategy Officer assigned to DDD.
  - o EOHHS reassigned existing staff to address Consent Decree related activities and secured the assistance of external subject matter experts to provide needed administrative expertise and guidance.
- Supported Employment. The number of individuals receiving supported employment placements meets Consent Decree benchmarks for the Sheltered Workshop Target Population and exceeded benchmarks for the Day Target Population during this reporting period.
- Day Services. The numbers of individuals participating in integrated day services, as required by the Consent Decree, increased slightly from the first to the second quarter of 2016.
- Conversion Institute. The Conversion Institute operated by the Sherlock Center at Rhode Island College is providing ongoing training and assistance to provider agencies that are converting segregated sheltered workshops to integrated supported employment programs.
- Conversion Funding. The Sheltered Workshop Conversion Trust Fund released dollars to provider agencies to assist them in converting segregated programs to integrated employment and day alternatives.
- Agreements. An Interagency Agreement was finalized between DDD, RIDE, ORS and EOHHS to facilitate the interagency planning, activities and data exchange between state agencies.
- Quality Improvement. RIDE is implementing effective strategies for assuring and improving the quality of employment related services furnished in compliance with the Consent Decree.
- Eligibility Determination. DDD revised its eligibility determination policies and practices to eliminate unnecessary activities and delays, decrease wait times and expedite the review of all pending applications for services.

### **Progress Made**

- Provider Contracting. Performance based contracting and payment methodologies being implemented by DDD and ORS need to be closely monitored and managed by the two state agencies to ensure the achievement of individual employment and day service outcomes consistent with Consent Decree benchmarks.
- Data Collection and Management. DDD, ORS and RIDE made significant progress toward creating the capacity to gather and report on the services provided and the outcomes achieved by the individuals in each of the Consent Decree's four target populations.

- o The Sherlock Provider Survey of supported employment and day program services and outcomes is being administered and reported quarterly.
  - o The State's interim Consent Decree Database is providing required information on services and supports.
  - o Data system improvements and reporting requirements enacted during 2016 must to be finalized and expanded in accordance with the plan submitted to the Court (see below).
- Supported Employment. Placement goals for the Sheltered Workshop Target Population were met during the current reporting period. Continued efforts need to be devoted to the expansion of supported employment services and the achievement of supported employment placements consistent with Consent Decree requirements.
- Individual Planning. Career Development Planning policies and formats utilized by RIDE, ORS and DDD meet Consent Decree requirements. Person-centered career development planning is not, however, being provided to all Target Population members as required (see below).
- Training. Increased support of training and training opportunities have helped to improve provider staff skills and qualifications but current training efforts and opportunities need to be continued and expanded to reach all direct support staff, job coaches and key supervisors, as required by the Consent Decree.
- Transition Planning for Youth. Several performance benchmarks were met during the current reporting period. Additional activities need to be taken by DDD, ORS and RIDE to ensure each target population member has a person centered career development plan on file and access to trial work experiences as needed.

#### **Action Needed to Come Into Compliance**

- Youth Exit Target Population Placements. The number of Youth Exit Population members with supported employment placements is significantly below Consent Decree requirements. Current actions must be strengthened to ensure performance benchmarks are met.
- Career Development Planning. The numbers and percentages of individuals with career development plans and individual benefits plans fall far short of the required performance benchmarks across all Target Populations and must be improved.
- Quality Improvement. The State has not developed and implemented a single statewide quality improvement initiative as required by the Consent Decree. An external review completed by the Monitor will provide recommendations to come into compliance with this provision at a later date.
- Individual Funding. The Monitor recommends that funds provided by the State to expand supported employment and integrated day services to Target Population members during FY 2017 be fully annualized in FY 2018 and future fiscal years. The State needs to take steps to ensure additional funding is available to address caseload increases related to individuals with

IDD transitioning from Special Education to adult services, entering the DDD system for the first time as required by the Consent Decree.

- **Provider Capacity.** Provider agencies do not yet have the numbers of trained staff needed to ensure the provision of services and supports required by the Consent Decree.
- **Data Management and Analysis.** Although improvements have been made, data on several outcomes and performance measures are not yet being gathered, reported, analyzed and fully utilized as required.
- **Youth Transition.** DDD and ORS need to strengthen oversight of Transition Timeline activities to ensure all identified services are being provided in accordance with set timelines and milestones.
- **Employment First Task Force.** The Task Force has met on a regular basis. However, required quarterly meetings with the Monitor and State officials have not occurred with regularity and reports describing the barriers to Consent Decree implementation and recommendations for improvement have not been issued.
- **Service Delays.** Families and advocates have identified barriers related to service delays and the lack of available providers and/or staff with needed training and expertise, particularly for individuals with complex service needs.

As noted above, descriptions of Consent Decree provisions, assessments of the State's progress on meeting performance benchmarks, and statements of recommended actions are included in the Findings Section of this report.

## II. Introduction

The Consent Decree in *U.S. v. State of Rhode Island*, Case No. CA14-175 resolves the United States' findings of violations by the State of Rhode Island of Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12131, et seq., as interpreted by the United States Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999), through its administration and operation of its day activity service system, including employment, vocational, and day services, 46-1-14 R.I. Code R. § 43.0, for individuals with intellectual and developmental disabilities (IDD). The report addresses the actions taken by the State to comply with the terms and conditions of the Consent Decree during the period October 1, 2015 to October 31, 2016. The review period was extended to include additional information and data that became available during the months of July, August, September and October 2016 as a result of two Orders issued by the U.S. District Court on March 3, 2016 and May 18, 2016. The Orders were filed to compel the State to comply with several Consent Decree provisions, requirements and deadlines that had not been met. Progress Reports issued by the Monitor in response to these Court Orders are referenced in the body of this document.

The Orders issued by the Court in March and May 2016 and the direct involvement of EOHHS led to a substantive improvement and increase in the State's activities relative to the Consent Decree. The State hired a new Consent Decree Coordinator in January 2016 and shifted the position and reporting responsibilities from the department of Behavioral Health Developmental Disabilities and Hospitals (BHDDH) to the Secretary and the Deputy Secretary/General Council of the Executive Office of Health and Human Services (EOHHS). During the months of April, May, and June the Legislature approved the Governor's recommendations for additional funding for the Division of Developmental Disabilities (DDD) to support the expansion of integrated supported employment and integrated day services for individuals with intellectual disabilities and individuals with developmental disabilities (IDD) consistent with the requirements of the Agreement. Several staffing changes affecting DDD took place during this period. The Division added the two additional staff positions that had been recommended by the Monitor to coordinate supported employment activities across provider agencies and oversee the development and operation of the Quality Improvement Initiative required by the Consent Decree. In June and July the department lost key administrative staff with the departure of the Director of BHDDH, the Director of DDD and the division's Chief Transformation Officer.

EOHHS took steps to provide needed administrative leadership and coordination during this time by assigning existing staff to assist in DDD's system change activities, relative to the Consent Decree, and securing consultants to provide advice and guidance on several important areas of policy and program operations. A seasoned professional with over 30 years of experience in State IDD service management and policy was brought on to provide temporary guidance, support and leadership to IDD services. BHDDH began active recruitment for the Position of DDD Director and sought broad community input. EOHHS employed a new Senior Strategy Officer assigned full time to DDD to fulfill the role of the Transformation Officer. An Acting BHDDH Director was appointed and the EOHHS Deputy Secretary expanded her work with DDD to ensure the State's ability to respond to Consent Decree requirements and performance benchmarks.

Section headings in this report track the organization of the Consent Decree. The Executive Summary (Section I) provides a brief overview of the findings, conclusions and recommendations included in the body of the report and a summary of the State's compliance with the Agreement's provisions and benchmarks since the last report. The Introduction (Section II) offers basic information on the Consent Decree with descriptions of its background, scope and target populations, as well as the methodology used to evaluate performance, compliance and outcomes.



The Findings Section (Section III) includes a review and assessment of the extent to which the actions taken by the State fully address the performance benchmarks, policy revisions and operational changes that are required by each of the Agreement's thirteen major provisions. Brief, concluding remarks are included in the final section of this report.

#### **A. Target Populations**

Under the terms of the Consent Decree (CD) the following individuals are eligible for Supported Employment Services, Integrated Day Services, and/or transition services (See CD Section III):

1. *Rhode Island Sheltered Workshop Target Population.* Individuals with IDD who receive day activity services in settings where they perform sheltered workshop tasks or have received day activity services in such settings during the year before the Consent Decree went into effect.
2. *Rhode Island Day Target Population.* Individuals with IDD who receive day activity services in facility-based day program settings or have received such services during the year before the Consent Decree went into effect.
3. *Rhode Island Youth Transition Target Population.* Individuals with IDD who are transition-age youth according to current Rhode Island law, currently attending a Rhode Island secondary school.
4. *Rhode Island Youth Exit Target Population.* Individuals with IDD who have exited a Rhode Island secondary school during the 2013-2014, 2014-2015, or 2015-2016 school years.

#### **B. Assessing Progress**

Monitoring activities during the current reporting period were designed to evaluate the extent to which the members of the four target populations received the services and supports to which they are entitled, and secondly, whether the State implemented the changes in policies and procedures that are required by the Consent Decree.

The review process involved eight on-site visits to the State and ongoing weekly or biweekly contact with the RI State Consent Decree Coordinator and the Department of Justice (DOJ). Scheduled and unscheduled telephonic meetings were held on a weekly basis with the State's Consent Decree Coordinator as well as with key state policymakers including the Deputy Secretary of the Executive Office of Health and Human Services, the directors and key staff of BHDDH - DDD, RIDE and ORS, the director of the Sherlock Center at Rhode Island College, members of the RI self-advocacy association, Advocacy in Action, and other advocates including representatives from the Rhode Island Developmental Disabilities Council. Additional meetings and discussions were held with provider agency directors and staff during site visits and via conference calls.

Information on State activities and compliance that is used in the preparation of this progress report was gathered through a number of different sources, methods and strategies including:

- Survey data on the services received and outcomes achieved by members of the four target populations as reported by the Sherlock Survey, the State Database and independently by DDD, ORS and RIDE.

- Reports on individual and system outcomes prepared by each of the three state agencies, and provided in monthly and quarterly updates and reports.
- Multiple in-depth interviews and discussions with the directors and key staff of EOHHS, DDD, RIDE, and ORS.
- Ongoing meetings and discussions with provider agency directors on the effectiveness and quality of the State's efforts to address the requirements of the Consent Decree and implement necessary changes.
- Interviews with the director and key staff of the Rhode Island College Sherlock Center and with representatives of the Rhode Island Developmental Disabilities Council.
- Visits to a sample of seven (7) developmental disabilities services provider organizations across the state, visits with people with IDD receiving support and interviews of program directors and key staff.
- Participation in meetings coordinated by the State agencies to improve and expand access to benefits counseling services, redesign career development planning tools, improve outcome and service related data, and address other key areas identified by the Consent Decree.
- Meetings with Advocates in Action and other stakeholders on the content and pace of change in state agencies.
- Meetings with the leadership of provider agencies to learn about and understand the barriers and challenges they face in implementing the Consent Decree.
- Participation in 2 meetings of the Employment First Task Force discussing barriers to Consent Decree implementation and effective strategies for moving forward with systems change.
- Review and analysis of state data, records and documentation of services and supports furnished to members of the Target Groups conducted by a subject matter expert in collaboration with the Monitor and key state agency officials.
- Conducted with the assistance of an independent reviewer, an assessment of individuals, individual records and services in May and July 2015 covering 9 provider organizations and 72 records.

### **III. Findings: Progress on Consent Decree Provisions**

This section describes the State's progress on meeting key milestones identified for each of the relevant provisions of the Consent Decree during the period outlined above. Performance benchmarks within each provision identify the outcomes that must be achieved and describe the status of the State's efforts to meet the requirements of each section of the Agreement. An assessment of the State's compliance with each benchmark is provided along with information regarding any further actions that must be taken by the State.

The language of the Consent Decree identifies BHDDH as the relevant state agency responsible for the provision of services and supports for the members of the Target Populations, as well as other individuals with IDD receiving publicly financed services. BHDDH includes the division of Behavioral Health and the Eleanor Slater Hospital, as well as the Division of Developmental Disabilities. Although BHDDH is involved in the delivery of services and supports to the four Consent Decree Target Populations, when documenting the actions that are being taken to comply with Consent Decree requirements it is generally more precise to refer to the operating agency, the Division of Developmental Disabilities.

#### **A. Outcomes (CD Section IV)**

The Outcomes section in the Consent Decree summarizes key performance benchmarks, systems change requirements and procedural obligations the State must address to demonstrate progress on achieving the terms and conditions of the Consent Decree. Virtually all of these requirements are included and described in more detail in subsequent sections of the Agreement. To improve readability and avoid redundancy in this Progress Report, the status of the State's compliance with the various benchmarks identified in the Outcomes section is described within each of the relevant topical sections of the Consent Decree. For example, information regarding the State's progress on meeting supported employment placement requirements is located in Section B of this report, Supported Employment Services and Placements.

#### **B. Supported Employment Services and Placements (CD Sections IV & V)**

**Benchmark 1: Supported Employment Services for the Youth Transition Target Population §IV(2).** By October 1, 2014, and by September 1st of every succeeding year of the Consent Decree, the State will provide all individuals in the Rhode Island Youth Transition Target Population with the appropriate services and supports described in Sections V(A)(1)-(2) that are necessary to introduce them to work in integrated settings in accordance with the youth transition process and milestones set forth in Sections VIII(4)-(10). Integrated employment services will be identified in the individual's annual person centered plan and career development plan as set forth in Section VIII.

**Status:** Supported employment services are being made available to members of the Consent Decree's four target groups by DDD, ORS and RIDE. Employment services are designed to be individualized and flexible as needed and desired by the individual. ORS offers a comprehensive array of employment related services and supports identified and organized through the Individualized Plan for Employment, (IPE) including job exploration, community based work experience, placement as well as the job-site supports necessary to enable individuals with IDD to be employed in competitive integrated setting at prevailing minimum wage or above. Additional service offerings are furnished to individuals transitioning from school to adult services. DDD provides the same supported employment service alternatives to adults with IDD organized through each person's Individual Support Plan (ISP) and/or Career Development Plan (CDP). It is important to note that while services are generally available, some families have complained that employment supports have been delayed in some cases due to the lack of provider capacity or staff with needed expertise.

RIDE does not provide supported employment services directly but works with the Local Educational Authorities (LEAs) to ensure that such services are being made available to students with IDD in accordance with the requirements of the Consent Decree. RIDE conducts

annual on-site visits that include a review of student CDPs and/or Individual Education Plans (IEPs).

**Assessment: Requirements Not Met.** The State is not providing the full scope of supported employment services required by the Consent Decree. While DDD, ORS and RIDE furnish an array of supported employment services, benefits counseling, career development planning and integrated employment services are not being made available to Target Population members as required by the Consent Decree. Information on the status of these services is provided in Section D Benchmarks 3 – 6 below.

**Benchmark 2 – Supported Employment Placements §IV8(a)-(d) & 9(a)** - The State will provide Supported Employment Placements and Integrated Day Services as detailed in Sections V-VI of the Consent Decree for individuals in the Rhode Island Youth Exit and the Rhode Island Sheltered Workshop Target Populations (§IV[8][a]-[d]) and for individuals in the Day Target Population (§IV[9][a]) according to the schedules in this section.

Table 1 below identifies the required placement benchmarks for the Youth Exit, Sheltered Workshop and Day Target populations and summarizes the placement outcomes for each target group. No specific placement requirements are provided for the Youth Transition target population. Data reported in Table 1 was drawn from State's Consent Decree Database as reported in the Quarterly Status Report on Court Ordered Placements as Amended, issued on September 16, 2016.

**Benchmark 2a.** The State will provide supported employment placements to members of the **Youth Exit Population** according to the following schedule:

- By January 1, 2015 - At least 50 individuals who left school during the 2014-15 school year.
- By July 1, 2015 - All remaining Youth Exit Target Population members who left, or will leave, school during the 2013-14 and 2014-15 school years.
- By July 1, 2016 - All individuals in the Youth Exit Target Population who left school during the 2015-2016 school year.

| <b>Table 1</b>                                                           |                              |                        |                            |                        |                            |                        |
|--------------------------------------------------------------------------|------------------------------|------------------------|----------------------------|------------------------|----------------------------|------------------------|
| <b>Consent Decree Placement Requirements and Status on June 30, 2016</b> |                              |                        |                            |                        |                            |                        |
|                                                                          | <b>Youth Exit Population</b> |                        | <b>Sheltered Workshop</b>  |                        | <b>Day Target</b>          |                        |
| <b>Placement Benchmark Dates</b>                                         | <b>Placements Required</b>   | <b>Placements Made</b> | <b>Placements Required</b> | <b>Placements Made</b> | <b>Placements Required</b> | <b>Placements Made</b> |
| <b>January 1, 2015</b>                                                   | 50 (2013-14)                 | 2                      | NA                         | NA                     | NA                         | NA                     |
| <b>July 1, 2015</b>                                                      | All (2013-14) + (2014-15)    | 10                     | NA                         | NA                     | NA                         | NA                     |
| <b>January 1, 2016</b>                                                   | NA                           | NA                     | 50                         | 57                     | 25                         | 118                    |
| <b>July 1, 2016</b>                                                      | All (2015-16)                | 17                     | NA                         | NA                     | NA                         | NA                     |
| <b>Total</b>                                                             | <b>151</b>                   | <b>29</b>              | <b>50</b>                  | <b>57</b>              | <b>25</b>                  | <b>118</b>             |
| <b>Total Population</b>                                                  | <b>151</b>                   | <b>-</b>               | <b>714</b>                 | <b>-</b>               | <b>1,508</b>               | <b>-</b>               |

**Status:** As described in Table 1, on June 30, 2016 a total of 151 members of the Youth Exit Target Population left school during the 2013-14, 2014-15 and 2015-16 school years. A total of 101 members of this population currently are receiving services from DDD. As described above, specific placement targets are set for each Youth Exit Population group on January 1, 2015, July 1, 2015 and July 1, 2016. The Consent Decree requires all individuals in the three Youth Exit populations to be placed in integrated supported employment by July 1, 2016. Data provided by the State indicate that by this date 29 individuals (19%) had been placed in integrated employment out of the total of 151 persons who were required to have entered employment by this deadline.

Data on the three Youth Exit Target Population groups are based on information provided by RIDE reflecting the numbers of individuals with intellectual and developmental disabilities. Individuals eligible for DDD services who have intellectual disabilities as a secondary or tertiary diagnosis and youth with developmental disabilities but no intellectual disability diagnosis may also qualify as members of the Youth Exit Target Population. These numbers are not included in the 151 count. Some of these young adults are classified as members of the Youth Exit Population by ORS and by DDD as they transition into adult services. The State is working to identify these individuals. The number of Youth Exit Population members is expected to increase significantly as more data become available.<sup>2</sup>

**Assessment: Requirements Not Met.** The State has not met Consent Decree placement benchmarks for the majority of the Youth Exit Population. Furthermore, the evidence is clear that not all members of this population with intellectual disabilities and/or developmental disabilities that are eligible for adult services have been identified and provided with the services to which they are entitled (see above). Two recommendations were made to the State by the Court Monitor to address the requirement to develop supported employment placements for all members of the Youth Exit Population.<sup>3</sup> In response, RIDE, ORS, DDD developed and submitted to the Monitor on September 30, 2016 a joint plan and implementation strategy for identifying all members of the Youth Exit Population. Implementation of the plan began in early October and was substantially completed on November 15, 2016. The three state agencies also collaborated on the development of a strategy and timeline for placing all individuals in the Youth Exit Population by June 30, 2017. The strategy and timeline was submitted and approved by the Monitor on October 31, 2016.<sup>4</sup>

**Benchmark 2b Sheltered Workshop Population:** By January 1, 2016, the State will provide Supported Employment Placements to at least 50 individuals in the Rhode Island Sheltered Workshop Target Population.

**Status:** Accurate data on the total number of Sheltered Workshop Target Population members who have been placed in supported employment by DDD, ORS and RIDE were not available

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<sup>2</sup> N.B. Not included in Table 1 are data from recent efforts by the State to identify members of the Youth Exit Target Group. These data are reported in *Status Update on the Amended Joint Plan for Identifying All Members of the Youth Exit Population* submitted to the Monitor on November 22, 2016. The report identifies an additional 350 previously unidentified individuals bringing the total Youth Exit Population census to approximately 501 persons.

<sup>3</sup> See Quarterly Status Report on Court Ordered Placements as amended on September 16, 2016.

<sup>4</sup> See Compliance Progress Report issued by the Monitor on October 31, 2016 (ECF Document 50).

until June 2016. Furthermore, as noted in Footnote #1, continued efforts to identify members of the Youth Exit Population are expanding the size of this population. ORS and RIDE were able to report on individuals placed during 2015, but this information was not routinely gathered and reported by DDD. As a result, it is unclear whether the State met the January 1, 2016 placement deadline. As noted in Table 1 above, a total of 57 individuals in the Sheltered Workshop Population received integrated employment placements by June 30, 2016, exceeding the placement benchmark by seven persons. The total Sheltered Workshop Target Population identified by the Consent Decree Database is 714.

**Assessment: Requirements Met**

**Benchmark 2c Day Target Population.** By January 1, 2016, the State will provide Supported Employment Placements least 25 individuals in the Rhode Island Day Target Population.

**Status:** Accurate data on the total number of Day Target population members receiving a supported employment placement was not gathered or reported by DDD until June 2016. As July 1, 2016, the State has provided 118 placements of individuals from the Day Target Population into integrated supported employment exceeding the benchmark of 25 individuals (See Table 1). The total number of individuals in the Day Target Population reported by the Consent Decree Database is 1,508.

**Assessment: Requirements Met**

**Benchmark 3 - Presumption of Employability §V(E).** The Consent Decree requires the State, including BHDDH, ORS, and RIDE, to establish and implement a policy or policies that include the presumption that all individuals covered by this Consent Decree are capable of working in integrated employment settings.

**Status:** DDD, ORS and RIDE have included the presumption that all individuals with IDD are capable of becoming employed in integrated settings in relevant policies and procedures. ORS has not deemed any individual as “unemployable” and has provided assurances that all individuals with IDD have full access to ORS funded employment supports, as identified in each person’s Individual Plan for Employment (IPE).

**Assessment: Requirements Met.**

**Benchmark 4 - Youth Exit Target Population Hours Worked §V(J).** By May 16, 2016 and thereafter all individuals in the RI Youth Exit Target Population who receive a Supported Employment Placement shall average, as determined by a point-in-time survey, work in an integrated employment setting for at least 20 hours per week.

**Status.** RIDE identified the following numbers of individuals in the three Youth Exit Populations based on the June 30, 2014 census:

- 2013-14: 84
- 2014-15: 64
- 2015-16: 121



The RI Statewide DD Employment and Day Activity Outcome Survey is conducted quarterly by the Rhode Island College Sherlock Center on Disabilities (Sherlock Survey) and provides data on outcomes achieved by all Consent Decree Target Populations. The Sherlock Survey Quarter 2 Progress Report for the period ending June 30, 2016 provides information on 95 individuals including 40 members of the 2013-14 Youth Exit Target Population, 38 members of the 2014-15 Youth Target population and 17 members of the 2015-16 target population. The total of 95 individuals represents approximately 63% of the 151 individuals identified as members of the Youth Exit Population. Of the 95 participants, 11 (12%) were reported as being employed in employer paid jobs in integrated settings. As a group these individuals averaged 95 hours per week or 8.6 hours per person per week. This represents a decrease in the average hours worked per week as compared to the previous quarter's average of 12.33 hours per person per week.

**Assessment: Requirement Not Met.** Individuals of the Youth Exit Target population who are working in employer paid integrated employment average 8.6 hours per week or approximately 43% of the 20 hours per week required by the Consent Decree.

**Recommended Actions:** The State is requested to develop, in collaboration with IDD provider agencies, a plan and strategy for increasing the average hours worked per week across all individuals in the Youth Exit, Sheltered Workshop and Day Target populations. The plan should be submitted to the Monitor by February 28, 2017 and implementation begun on March 1, 2017.

**Benchmark 5 – Establishment of a Variance Process §V(L)(M) & (N).** A variance process must be established by the State to accommodate individuals who, after receiving information, services and work experiences, make an informed choice not to work in integrated settings.

**Status:** DDD issued a variance policy and implementation plan providing a timeline for completing and disseminating information on the Consent Decree Variance Policy to providers, families and individuals with disabilities. Training on the variance process is provided on an ongoing basis as part of the training offered by DDD and ORS on the Career Development Plan. This training has been delivered to over 300 staff and family members to date. The DDD Employment Specialist provides training on the Variance to provider agencies, individuals, families, agencies and social case workers focusing on the reasons one might apply for a variance, the steps involved and alternatives that may be pursued, in conjunction with the ISP Team and the development of the individual's career development plan, to keep the individual on a path toward integrated employment to the fullest extent possible. DDD continues to work to balance the division's strong emphasis on employment-first with the use of the Variance process. DDD reported that a communication strategy was shared with the Developmental Disabilities Supported Employment Council, a committee sponsored by the Sherlock Center with 18 employment service providers and their lead staff. The strategy focused on clarifying alternatives to seeking a variance (e.g. medical exemption and/or integrated day program options contained in the Consent Decree), and the elements of person-centered informed decision-making. To date, no requests have been submitted to the Monitor for approval and no variances have been approved.

**Assessment: Deferred.** The State's variance policy and approval process is in place and training on the use of the variance is occurring. Although increasing numbers of individuals, staff and families are receiving training, no variances have yet been requested. DDD and ORS are requested to convene a group of individuals receiving support, families, providers and

others to review the variance policy and approval process, describe current practice based on discussions with providers and families, identify possible improvements to policy and practice and provide recommendations to the Monitor on the actions that can be taken to strengthen functionality and usability of the variance process. It is requested that recommendations be provided by March 31, 2016.

### **C. Integrated Day Services and Placements (CD Section VI).**

**Benchmark 1 – Integrated Day Services Scope §VI(A).** Integrated Day Services include an array of services and supports necessary to allow individuals with IDD to participate in and gain membership in integrated mainstream community-based recreational, social, educational, cultural, and athletic, volunteer, and training activities of the individual's choosing that are provided in integrated settings during the day with the appropriate services and supports.

**Status:** Data reported by the Sherlock Survey Second Quarter Data Report indicate that individuals participate in an array of community based activities in the following areas: arts and leisure, health and fitness, adult education and training, "soft" employment skills, activities of daily living, volunteer activities and memberships in community organizations.

**Assessment: Requirement Met.** The Sherlock Survey data report documents the variety of day services and supports provided to individuals with IDD. The scope of integrated day services that is provided appears to be consistent with the requirements of the Consent Decree. Additional steps will be taken by the Monitor to review and evaluate the nature, scope and character of the integrated day services received by members of the target populations.

### **Benchmark 2 – Integrated Day Service Availability and Characteristics §VI(B)(1-6).**

Integrated day services will be provided to all individuals in the Sheltered Workshop, Youth Exit and Day Target populations who receive a supported employment placement for the remainder of all time set forth in an individual's ISP during a 40 work week in which the person is not in school or supported employment. day activities should have the following characteristics:

- Be individualized, flexible, purposeful and productive to fit the needs and desired of the individual receiving support.
- Offer individuals with I/DD the same opportunities as non-disabled individuals to engage in non-work activities at times and frequencies of the person's choosing.
- Selected and designed by the individual through a person centered process.
- Complement and support integrated employment outcomes.
- Allow individuals with disabilities to interact with individuals without disabilities to the fullest extent desired and practical for the individual.
- Facilitate meaningful choice between group and non-group, structured and unstructured activities.

**Status:** Integrated day services are being provided to members of the three target populations with the general goal of meeting the characteristics listed above in Benchmark 2. An



independent review of the availability and characteristics of the integrated day services that are being offered by DDD is currently being prepared and will be reported by the Monitor when complete. Information is not yet available to indicate whether or to what extent integrated day services are being furnished to all individuals Sheltered Workshop, Youth Exit and Day Target populations who receive a supported employment placement for the remainder of all time set forth in an individual's ISP during a 40 work week in which the person is not in school or supported employment as required.

The Sherlock Survey provides information on the numbers of individuals in each Target Population who are engaged in integrated day services (referred to as Community Based Non-work Activities) as well as detailed data on the activities being chosen, the community settings being used and the length of time or tenure that individuals have been engaged community based activities. The Survey First Quarter Report identifies 1,596 individuals as receiving integrated day services as of March 30, 2016 from the following target populations: Sheltered Workshop – 492, Youth Exit - 55, and Day Target – 1049. A total of 1,653 were reported to be participating in integrated day activities in the Second Quarter Survey Report documenting services through June 30, 2016 from the following populations: Sheltered Workshop – 504, Youth Exit Population – 59, and Day Target - 1090.

**Assessment: Deferred**

**Benchmark 3 – Individuals of Retirement Age §VI(B)(7).** Individuals with IDD who are of retirement age will have access to support their participation in integrated retirement activities including access to both paid and natural supports.

**Status:** The review of the nature of the services and supports received by individuals of retirement age will be included in the next progress report.

**Assessment: Deferred**

**Benchmark 4 – Integrated Day Only Placements §VI(B)(10).** Individuals in the Day Target Population who do not choose to participate in supported employment must be offered integrated day services for all of the time set in the person's ISP, based on a 40 hour work week.

**Status:** The State's Variance Process is designed to be used by individuals who make an informed choice not to participate in integrated employment services, as well as individuals who have selected to receive an integrated day only placement in lieu of supported employment. As noted above, the State has not widely distributed or provided focused information on the implementation of the variance policy for individuals electing to receive day services. As a result of this lack of information, no individuals from the Day Target Population have chosen not to participate in supported employment activities and none have requested a variance to do so. As noted above, information on the variance process has been and will continue to be included in the Career Development Plan Training provided by DDD and ORS.

**Assessment: Deferred**

**D. Career Development Planning Outcomes and Practices (CD Sections IV and VII)**

| <b>Career Development Planning Benchmarks</b> |             |                                                                                                                                   |                            |
|-----------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>Target Population(s)</b>                   | <b>Date</b> | <b>Requirement</b>                                                                                                                | <b>Reference</b>           |
| Youth Transition                              | 10/1/2014   | Receives Person Centered Planning / Career Development Planning beginning at age 14, and services at V(A)(1)-(2) and VIII(4)-(10) | V(A)(1)-(2), VIII (4)-(10) |
| Youth Exit                                    | 1/1/2015    | Receives Person Centered Planning / Career Development Planning and services V(A)(1)-(2)                                          | IV(1), (5)                 |
| Sheltered Workshop, Day Program, Youth Exit   | 1/1/2015    | State adopts and implements CDP policies covering each individual                                                                 | VIII(1)                    |
| Sheltered Workshop, Day Program               | 1/1/2016    | State provides CDP for each individual                                                                                            | IV(5)                      |

**Benchmark 1 – Career Development Planning Policy and Procedures §VII(1).** The State must adopt and implement policies and procedures for developing career development plans (CDP) for each individual in the Rhode Island Sheltered Workshop, Rhode Island Day, and Rhode Island Youth Exit Target Populations by January 1, 2015. The policies must presume that all Target Group members: (a) are capable of working in integrated employment settings, (b) have an active and leading role in the career development planning process, and (c) are determined eligible for employment without meeting any pre-established readiness criteria. See also Sections V-VI Section VII (7).

**Status:** Career Development Planning policies and procedures have been reviewed and approved by the Monitor and are in place for members of the Target Populations receiving services from RIDE, ORS and DDD. Each state agency has a process for reviewing CDPs on an ongoing basis and provides training and technical assistance to providers and the LEAs. RIDE developed a person centered planning approach for LEAs that organizes services and supports around a self-determined, self-directed future for individuals with IDD based on each person's skills, preferences, strengths and abilities. Staff training emphasizes the importance of utilizing person-centered planning and service development as the foundation for the CDP. ORS has implemented and trained developmental disabilities services providers on the use of and expectation of CDPs. ORS requires providers to complete the CDP for those individuals whose entry into the adult system is through ORS, and not through the school system or DDD. DDD implemented a new career development planning format and process in July 2016, 18 months after the Consent Decree deadline of January 1, 2015.

Section 5(h) of the Order issued on May 18, 2016 by the U.S. District Court directs the State to implement ongoing training on the use of career development plans and to provide regular supervision to ensure all relevant agency staff are using the plans as required by the Consent Decree. As noted in the Report of the Court Monitor issued on September 9, 2016, DDD, RIDE and ORS furnished documentation that training in career development planning has been provided on an ongoing basis since July 2016 as required. RIDE reports that training on career development planning for LEA and RIDE staff begin on September 26, 2014 and has continued since that time. Additional training occurred in October 2014, April 2015, October 2015 and April 2016. RIDE furnished reports of training on career development planning provided to LEAs on a quarterly basis. ORS participated in trainings offered by RIDE. During the period August 23, 2016 through September 28, 2016, DDD provided training to 253 provider organization staff and/or self-directed individuals during 12 separate training sessions offered

statewide. It is important to note that during October and November 2016 an additional 128 provider agency staff and fiscal intermediary individual support plan writers from the fiscal intermediaries were trained on the Career Development Planning process. These trainings were announced via the BHDDH web site, as well as through email to provider agency executive directors and to IDD stakeholder groups.

**Assessment: Requirement Not Met.** RIDE, ORS and DDD have adopted individualized person-centered career development planning formats, policies and procedures. Approved career development planning policies and practices are being fully implemented by ORS and RIDE. DDD, however, is in the early stages of implementation after launching its new person-centered career development planning process in April 2016 and instituting provider training on the new format, policies and practices in August 2016. DD provider agency staff are receiving training but the use of the new CDP format and process has not yet penetrated the entire the DD system. The percentages of Target Group members with appropriately constructed CDPs continues to fall below requirements (see Benchmark 3 below). The department hired a Supported Employment Coordinator with responsibilities for providing training and technical assistance on career development planning and other employment related activities in June 2016.

**Benchmark 2 – Career Development Plan Content and Focus §VII(5).** Career development plans shall be formulated and/or revised annually in conjunction with the ISP or IEP process with a goal of maximizing the number of hours spent working consistent with the individual's abilities. The plan shall: (a) identify the individual's skills, interests, strengths and abilities; (b) be integrated into the ISP, IEP, IPE, and ILP and Summary of Performance; (c) identify the nature and scope of services needed to remove obstacles to obtaining and maintaining integrated employment and participating in integrated day services.

**Status:** As noted above, the person centered plan and planning process developed by RIDE for the LEAs organizes services and supports around a self-determined, self-directed future for individuals based on each person's skills, preferences, strengths and abilities. RIDE, in collaboration with ORS, the Rhode Island Parent Information Network (RIPIN) and DDD provided LEAs with brochures, fact sheets, and general information at IEP meetings, transition parent events, conferences, etc. RIDE provides information regarding its Employment First policy<sup>5</sup> (See Section E, Benchmark 1 below), as well as an introduction to state services beginning at the age of 14 as indicated in the RI Transition Timeline. ORS utilizes the format used by RIDE for individuals entering the system through ORS. ORS provides training to all rehabilitation counselors with transition responsibilities on the career development plan format and process that was developed by RIDE in 2014. Training updates using DDD's CDP format will be provided to ORS staff to ensure uniformity with the new process in 2017. As noted above, DDD developed a new policy and format for the career development plan and planning process used by provider organizations. The process was officially launched in July 2016.

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<sup>5</sup> Employment First Policies are policies, developed and implemented by state agencies and departments serving individuals with IDD and other disabilities that identify employment in integrated settings as the first and priority service option for individuals receiving publicly funded services. See Section E, Benchmark 1 below.

**Assessment: Requirements Met.** The career development planning formats used by RIDE, ORS and DDD address the requirements of the Consent Decree. It is important to note, however, that although the planning formats utilized by ORS and DDD include person-centered planning elements and concepts, the quality of the plan documentation in evidence in consumers' files is barely adequate and in need of improvement. The assessment of career development plan implementation and planning is provided in Benchmarks 3, 4 and 5 below. DDD reports that it is expanding its relationship with the Sherlock Center to better integrate person-centered planning into the career development planning process.

**Benchmark 3 - Career Development Plan Outcomes: Youth Exit Target Population §IV (1)&(5).** By January 1, 2015, the State will provide all individuals in the Rhode Island Youth Exit Target Population person-centered planning (PCP) resulting in a career development plan (CDP). The CDP must include the services and supports described in Sections V(A)(1)-(2) as necessary and appropriate to introduce them to work in integrated settings consistent with the youth transition process and milestones set forth in Sections VIII(4)-(10).

**Status:** As noted above RIDE, ORS and DDD have established person-centered career development planning policies and operational practices regarding the content and focus of planning activities that are consistent with the requirements of the Consent Decree. The application of career development planning, however, has fallen short of Consent Decree requirements across all of the target populations.

Table 2 summarizes state data on the numbers of individuals with career development plans and the numbers of individuals with benefits plans on June 30, 2016 for each of the four Consent Decree Target Populations. The data reveal that only 37% of the 258 individuals in the three Youth Exit Populations (combined) had a career development plan on June 30, 2016. It is important to note that career development planning for this population was not required until October 1, 2014. This may partially explain the low participation rates for members of the 2013-14 Exit Population.

| Table 2<br>Individuals with Career Development Plans<br>and Benefits Plans<br>Second Quarter Ending June 30, 2016 |                      |                                            |                               |
|-------------------------------------------------------------------------------------------------------------------|----------------------|--------------------------------------------|-------------------------------|
| Target Populations                                                                                                | Total<br>Individuals | No. with<br>Career<br>Development<br>Plans | No. with<br>Benefits<br>Plans |
| Youth Exit                                                                                                        |                      |                                            |                               |
| 2013-14                                                                                                           | 76                   | 18                                         | 1                             |
| 2014-15                                                                                                           | 75                   | 10                                         | 1                             |
| 2015-16 est.                                                                                                      | 107                  | 67                                         | 0                             |
| Total                                                                                                             | 258                  | 95 (37%)                                   | 2 (1%)                        |
| Youth Transition                                                                                                  | 440                  | 348 (79%)                                  | n/a                           |
| Sheltered Workshop                                                                                                | 787                  | 113 (14%)                                  | 35 (4%)                       |
| Day Target                                                                                                        | 1655                 | 218 (13%)                                  | 65 (4%)                       |

RIDE's quality improvement activities during the quarter ending June 30, 2016 included on-site LEA visits utilizing the Employment First Quality Review Checklist. Reviews identified service barriers and gaps as well as additional training LEAs need to improve the quality of their efforts to implement the requirements of the Consent Decree. The following barriers and/or gaps were identified based on the results of reviews of all districts across the state:

- The need for businesses to support integrated trial work experiences (employer knowledge)
- The knowledge of the transition process among middle school educators
- Challenging transportation issues, particularly in the rural school districts
- Time for integrated trial work experiences for those students who are included in the general education setting
- Knowledge of Employment First (how to articulate to families and business community)
- Career Development Plans- lack quality and linkages to IEP.

RIDE reported that the above challenges are being addressed in the particular LEAs through targeted technical assistance provided during the 2016-2017 school year. Past training has focused on building educators' understanding of the requirements of the Consent Decree, the implementation of CDPs, person centered planning, planning for youth with IDD 14-21 years of age, orientation to ORS and DDD services, and the implementation of the Employment First Checklist to identify service quality issues. Additional training has provided clarification to Special Education Directors regarding students covered under the Consent Decree, reviewed the discovery process for youth with significant barriers to employment, person centered planning training- MAPS and instruction on the completion of Consent Decree Data Fields that were added to the Special Education Census. Over 60 training sessions were provided during May, June and July between the months of May to July 2016.

**Assessment: Requirements Not Met.** The numbers of youth with career development plans does not meet Consent Decree requirements. Data reported in the State's Consent Decree Database reveal that only 37% of the 258 individuals in the three Youth Exit Populations (combined) had a career development plan on June 30, 2016. The need to ensure person-centered career development planning for each member of the Youth Exit Target Population has been identified by the State as an area in need of improvement. Additional training is being provided to the LEAs to improve career development planning. Once youth exit school, however, responsibility for career development planning shifts to ORS and DDD. In the process of transitioning to adult services DDD must ensure that CDPs completed for individuals while they are in school are included as part of the intake paperwork and follow the person to his or her adult services provider.

**Benchmark 4 – Career Development Plan Outcomes: Youth Transition Target Population §IV(3); §VIII(7).** The State will engage in an annual person centered planning process with all individuals in the Youth Transition Target Population mandated by state law to begin at age 14 resulting in a career development plan for each transition age student that consolidates the recommendations of school personnel, ORS and DDD representatives. The plan will be developed by the employment team and inform employment related goals and recommendations of the Individual Support Plan (ISP), the Individual Education Plan (IEP), the Individual Plan for Employment (IPE), Individual Learning Plan (ILP) and individuals' Summary of Performance (SOP).

**Status:** RIDE works in collaboration with the LEAs to implement the requirements of the Consent Decree for transition age students with ID and DD beginning at age 14. In July, RIDE identified 462 individuals with ID in the Youth Transition Target Population. Eighty-percent (80%) of these individuals (368) have a Career Development Plan in their records as verified by the Special Education Census as well as by on-site Employment First Quality Reviews (See Section L below). An additional 209 individuals with developmental disabilities and/or intellectual disabilities as a secondary or tertiary diagnosis were identified by the census and



reported as having participated in a person centered planning process and to have completed CDPs.

**Assessment: Requirements Not Met.** The Consent Decree requires that all members of the Youth Transition Target Population have career development plans. The state's Consent Decree Database reports a total of 470 individuals in the Youth Transition Population. RIDE reports a total of 462 individuals in the Transition Target Population with intellectual disabilities, 368 of whom (80%) have career development plans in place. While the State has demonstrated progress in this area, the requirement that all members of the Transition Target population have CDPs has not yet been achieved.

**Recommended Actions.** RIDE and ORS report that they have implemented monitoring and quality improvement strategies to identify noncompliance with this requirement and determine the need for additional training or oversight to improve career development planning. However, numbers of individuals continue to be without needed CDPs. RIDE and ORS are requested to review and improve their current policies and practices for ensuring that CDPs are provided in a timely fashion to all individuals who have been determined to need one, and to provide a report to the Court Monitor on the steps they are taking to comply with this provision not later than February 28, 2017.

#### **Benchmark 5 – Career Development Plan Outcomes: Sheltered Workshop Target Population and the Day Program Target Population §IV(5); §VII.**

**Status:** Information reported by the State's Consent Decree Database for the quarter ending June 30, 2016 indicates that career development plans are on file for only 113 of the 787 members of the Sheltered Workshop Target Population (14%), and for 218 of the 1,655 members of the Day Program Target Population (13%).

Additional analysis was performed on career development plan documents by the Court Monitor and the U.S. Department of Justice. In response to Provision #3 of the Court Order issued on May 18, 2016, the Court Monitor and DOJ officials jointly requested and reviewed a sample of career development plans for 80 members of the four Consent Decree target populations. The purpose was to assess the quality and comprehensiveness of current career development planning, as determined from the documentation in the files. The sample was divided into two parts with plans from 40 individuals reviewed by the Court Monitor and 40 reviewed by the DOJ. Career development plans were selected proportionally from the four target groups based on the total number of individuals in each of the four populations. For example, the Youth Transition Population of 470 individuals represents 17% of 2,843 individuals in the four Consent Decree Target Populations. Applying this percentage to the sample of 80 individuals yielded a sample of 14 files representing the Youth Transition Population, four files for the Youth Exit Population, 20 files for the Sheltered Workshop Population and 42 files for the Day Program Population.

Career development planning documents were evident in 32 or eighty-percent (80%) of the 40 individuals reviewed by the Monitor across all populations. The quality and comprehensiveness of the documentation, however, varied significantly with only a few career development plans meeting the minimum requirements outlined by the Consent Decree. Overall, career development plans provided descriptions of assessments, meetings and activities that had taken place with or on behalf of the individual. The majority of the plans that were reviewed included a goal statement made by or on behalf of the individual, but did not identify any near-

term objectives or skills that the individual would need to accomplish in order for him or her to reach the stated employment goal. Documentation or reference to task analyses, training strategies or skill building activities that may have been provided to the individual to enable him or her to reach the employment goal was not included in the materials that were reviewed, but they may have been present in the client file. The overall impression of the status of career development planning based on the sample of files reviewed is that in a significant number of instances career development planning is not taking place as intended. The results of this review are consistent with similar assessments completed by the independent consultant. The reviewer noted a strong need for provider training on person-centered planning and thinking skills.

As noted above, DDD did not have an approved career development planning policy, format and implementation plan until April 2016, sixteen months after the January 1, 2015 deadline. Provider training on the new procedures did not begin until August 2016. Implementation was delayed in part due to the lack of staff. New staff were hired in June to address this issue.

**Assessment: Requirements Not Met.** Quantitative data from the State's Consent Decree Database indicates that 86% of the Sheltered Workshop target population and 87% of the Day Program target population do not have career development plans in place. A qualitative review of the content of existing career development plans performed on a sample of 80 individuals strongly suggests that the majority of plans that are in place do not meet Consent Decree requirements for person-centeredness and content. DDD's current training schedules and plans will not develop the provider capacity needed to ensure that Target Group members receive the person centered services and supports to which they are entitled within a reasonable time frame.

**Recommended Actions:** DDD has agreed that additional efforts need to be taken to address the critical need for training on career development planning. The Division reports that it is implementing an accelerated training schedule for provider agency staff and is expanding the scope of its contract with the Sherlock Center to enable the Center to take a leading role in expanding person-centered planning and training initiatives across all agencies and in the provider community.

The Monitor requests DDD to provide an operational plan by February 28, 2017 to: (a) expand CDP training to all provider organizations and families, (b) ensure all members of each target group receive a person-centered career development plan that meets the quality and content requirements outlined in the Consent Decree by June 30, 2017, and (c) provide the Monitor with quarterly updates on these activities from April 1, 2017 forward.

**Benchmark 6 - Benefits Planning §IV(6).** All individuals in the RI Youth Exit, Sheltered Workshop, and Day Program Target Populations will receive benefits planning information and counseling from qualified professionals who are experienced and certified in Social Security and SSI regulations. Benefits planning and information will be provided no later than the year in which the person is scheduled to transition to a supported employment placement in accordance with the schedule in Section IV(8)(a) and (b).

**Status:** On June 21, 2016, the State provided the Monitor with a Benefits Counseling Update, summarizing actions taken by DDD and ORS to expand access to benefits planning and counseling activities by members of the Consent Decree's four Target Populations. The update summarizes key activities that have taken place through technical assistance furnished by the



Sherlock Center under a multi-year grant from ORS and in response to a State Plan to Address Benefits Counseling and Work Incentives that was developed by the Sherlock Center in December 2015. The State Plan describes capacity and funding needs, sets professional standards for Certified Benefits Counselors and includes an outline for expanding community awareness and education through the dissemination of information at events scheduled between November 2015 and April 2016. Additional activities are identified for 2017-2018.

DDD is collaborating with the Sherlock Center to accomplish several operational objectives designed to: assess benefits counselor capacity, prioritize Target Population members in or ready for employment, expedite the provision of benefits related information from the Rhode Island Department of Human Services and the U.S. Social Security Administration, identify funding sources, expand priority groups, and provide assistance and information as required by the Consent Decree. Eight performance goals are identified for accomplishment during the period June 1, 2016 through December 1, 2016.

As noted above, the provision of information and planning regarding the impact of an individual's employment on the public benefits that he or she receives is required by Consent Decree Section VIII(4)(e) to take place during the year in which the person receives supported employment. Members of the Youth Transition Target Population must receive benefits planning information during the year prior to their exiting secondary school. These requirements suggest that, ideally, the number of individuals with benefits plans or activities should roughly equal the number of individuals placed in supported employment. However, state data, as shown in Table 3, demonstrates that this is not the case. The numbers of individuals who were placed in supported employment across all populations far exceed the numbers of individuals in the same categories who have received benefits plans or information. ORS and DDD are working with Sherlock Center to identify members of the Target Populations who are employed and determine the best strategy for providing benefits counseling to those individuals. The pilot project involves the four developmental disabilities provider agencies with the largest number of employed individuals. The pilot started in November 2016 and began active outreach in December 2016. ORS noted that it has, in collaboration with the Sherlock Center, provided multiple benefits counseling orientation sessions to transition aged youth across the state during the past year and will continue these outreach efforts in 2017. The Sherlock Task Force group meets monthly to identify and discuss ways to fund and expand benefits counseling.

| Table 3<br>The Number of Individuals in<br>Supported Employment with<br>Benefits Plans |                 |                   |
|----------------------------------------------------------------------------------------|-----------------|-------------------|
| Population                                                                             | Placed<br>in SE | Benefits<br>Plans |
| Youth Exit                                                                             | 27              | 2                 |
| Sheltered<br>Workshop                                                                  | 37              | 35                |
| Day Target                                                                             | 118             | 65                |

**Assessment: Requirement Not Met.** The finding that the State is not ensuring sufficient access to benefits planning activities and resources was highlighted in the 2015 Monitor's Progress Report. BHDDH-DDD and ORS were required to develop a plan for ensuring a sufficient number of certified benefits counselors are available to assist members of the four Targeted Groups as required by the Consent Decree within 90 days. The Benefits Counseling Update that was submitted to and approved by the Monitor provides a credible path toward the expansion of benefits counseling services statewide. Unfortunately, information has not been provided on the extent to which the plan's objectives were being achieved. .

**Recommended Actions:** The State must report to the Monitor on the status of the 8 objectives and outcomes identified in the above mentioned Benefits Planning Update not later than

February 28, 2017. Any objectives not yet accomplished must be completed within that same time period. The State will provide a list of all individuals from each target group who are not receiving needed benefits planning services along with a plan to initiate needed services by February 28, 2017.

**Benchmark 7 - Vocational Assessments and Eligibility Criteria §VII(2)-(7).** All vocational assessments and vocational eligibility criteria will be person-centered, appropriately designed for individuals with IDD and based on the presumption that with the correct services and supports all individuals with IDD can work.

**Status:** As described in the previous Monitor's Consent Decree Progress Report (August 17, 2015), RIDE, ORS and DDD policies and practices regarding vocational assessments and vocational eligibility criteria require assessments and evaluations to be performed in integrated employment and community settings.

**Assessment: Requirement Met.**

#### **E. Transition Planning for Youth (CD Section VIII)**

**Benchmark 1 – RIDE Employment First Policy §VIII(1).** RIDE shall adopt an Employment First Policy, making work in integrated employment settings the first and priority service option for youth seeking transition work placements and for transition-age youth's postsecondary vocational planning objectives. RIDE's Employment First Policy will set forth values for the State's transition planning process that reflect the State's expectations for supporting youth in transition to integrated employment settings through a systemic and collaborative framework.

**Status:** RIDE, ORS and BHDDH have developed and instituted the required policies and practices.

**Assessment: Requirement Met**

**Benchmark 2 – Interagency Agreement §VIII(2).** By July 1, 2014, RIDE, BHDDH, and ORS shall amend and modify their existing interagency agreement to include the joint promotion and implementation of a school-to-work transition planning, the designation of ORS as responsible for the trial work experience requirements of Section VIII(6) of the Consent Decree and RIDE as responsible for ensuring that the trial work experience requirement of Section VIII(6) is embedded and incorporated into the existing IEP planning process.

**Status:** An interagency Cooperative Agreement between RIDE, ORS and BHDDH-DDD was developed and signed by the parties on January 13, 2016. The effective period of the agreement is January 1, 2016 through December 31, 2019. The agreement includes the provisions outlined in Section VIII(2) of the Consent Decree. For additional information see below Section J. Interagency Collaboration, Benchmark 1 Memorandum of Understanding.

**Assessment: Requirement Met.**

**Benchmark 3 – Transition Process §VIII(4).** The transition planning process for students in the Rhode Island Youth Transition Target Population shall begin by age 14 and will include a career planning team and access to ORS and Medicaid Waiver services as appropriate. The transition

planning process must be designed to ensure that each youth and his/her family has been informed about, and been given opportunities to experience, Supported Employment Services and trial work experiences and identify milestones identified in this section including but not limited to:

- Assignment by age 14 to an employment (career) planning team.
- No later than during the first year of entry to a Rhode Island secondary school, the formulation and annual reassessment of employment related recommendations of the IEP reflecting students' personal interests and goals for postsecondary employment and/or postsecondary education.
- No later than the year in which a student turns 16 years of age during the annual IEP planning process the development of employment-related recommendations and a comprehensive introduction to or enrollment in State services, if an individual is eligible or will be eligible.
- No later than the year in which a student turns 18 years of age, during the annual IEP planning process, a meeting with the career planning team to facilitate post-secondary employment and ensure that eligible youth: (a) have been introduced to numerous and specific options to receive integrated supported employment services in community-based long-term placements, (b) have (or will have) experienced the opportunity to be placed and work in such a setting prior to the end of his or her participation at a Rhode Island secondary school.
- No later than during the year prior to exit from secondary school, all individuals in the Rhode Island Youth Transition Target Population shall receive benefits planning information, according to the standards set forth in Section IV(6) (See above).

**Status:** The Transition Timeline, developed jointly by RIDE, BHDDH and ORS, was updated on November 24, 2015 and on July 1, 2016 (see below) and appropriately addresses the activities required by the Consent Decree. Consistent attendance by representatives at transition meetings for youth in transition has remained a challenge for ORS and DDD.

The full assessment of the actions the State has taken to come into compliance with the requirements of this section of the Consent Decree and related requirements of the Order issued by the Court on May 18, 2016 is provided in the Court Monitor's review of the State's Third and Fourth Status Reports issued on July 22, 2016 and September 9, 2016 respectively. In response to the Court Order the State developed the capacity to track key milestones in the transition process for Target Group members, revised and expanded the Transition Timeline, and finalized both a comprehensive communications plan, and a plan for ensuring DDD and ORS representatives consistently attend IEP meetings for transition age individuals. DDD hired additional staff to improve oversight and management of supported employment, day services, quality management and other activities related to Consent Decree compliance, as well as program operations and adherence to Federal Medicaid regulations.

Although the State met the process requirements for transition services, the consistent participation of qualified State representatives from DDD or ORS at IEP meetings has not occurred. DDD has reported some progress in this area. In the 2014-2015 school year, DDD staff attended 53 career planning/IEP meetings. During the 2015-2016 school year, DDD was invited to 430 career planning/IEP meetings and attended 123 (29%). A separate review conducted by

the Monitor of the files of seven individuals from the Youth Transition Target Population revealed that DDD officials attended 4 of 7 (57%) career development planning meetings and ORS staff participated in 5 of the 7 career planning meetings (71%). It is recognized that the State is taking steps to improve attendance of department representatives at Youth Transition meetings.

**Assessment: Requirements Met.** The State has met requirements identified in the Consent Decree and in the Court's Order of May 18, 2016 regarding the development and implementation of a transition process for the Youth Transition Target Population.

**Benchmark 4 – Person-Centered Career Development Plan §VIII(3), (7).** A person-centered career development plan shall be prepared by appropriately staffed career planning teams for each youth in transition to inform the development of employment related goals and recommendations.

**Status:** See above, V. Findings (D) Career Development Planning, Benchmark 4 Career Development Plan Outcomes: Youth Transition Target Population.

**Assessment: Requirements Not Met**

**Benchmark 5 – Vocational Assessments §VIII(5)&(8).** All youth in transition shall have an opportunity to experience one or more vocational/situational assessments in integrated employment settings. BHDDH, ORS, and RIDE, shall prohibit vocational assessments of transition-age youth in segregated work settings.

**Status:** RIDE's Employment First Policy prohibits the provision of vocational assessments in segregated settings and has communicated this policy to the LEAs. ORS' policies and regulations require all assessments to be conducted in non-segregated community settings. BHDDH affirms and supports this practice, but does not currently fund vocational assessments.

**Assessment: Requirements Met.**

**Benchmark 6 – Trial Work Experiences §VIII(6).** Before exiting secondary school all transitioning youth shall have an opportunity to experience at least two trial work experiences, each of approximately 60 days in duration, in an individualized, integrated employment setting meeting the definitions and standards set forth in Sections V(D)-(E).

**Status:** The State's interagency agreements designate ORS as responsible for the trial work experience requirements and RIDE as responsible for ensuring that the trial work experience requirement is embedded and incorporated into the existing IEP planning process. RIDE reported that the evaluation of students' participation in integrated trial work experiences are a part of the district's on-site review of career development plans and planning. RIDE also reported that information on trial work experience participation is documented in the Special Education census data. RIDE has conducted on-site monitoring for all requirements of the CD which includes a review of evidence of student's CDP's where trial work experiences are documented. However, data on the numbers of transition age youth who have had the opportunity to experience at least two trial work experiences of at least 60 days duration in an individualized integrated employment setting was not provided by RIDE or ORS to the Monitor.

**Assessment: Requirement Not Met.** RIDE has mechanisms for evaluating students' participation in integrated trial work experiences but has not provided this information to the Monitor.

**Recommended Actions:** RIDE and ORS are requested to provide to the Monitor by February 28, 2017 data on the number and percentage of transitioning youth who have had the opportunity to experience at least two trial work experiences as required by the Consent Decree.

**Benchmark 7 – Services to Transition Age Youth §VIII(9).** BHDDH, ORS, and RIDE shall ensure that the appropriate services and supports are available to transition-age youth who choose to work in the community before their 21st birthday rather than remaining in school. BHDDH will update its policies and administrative rules to enable eligible individuals to access BHDDH services by age 18. ORS will update its policies and administrative rules to enable eligible individuals to access vocational rehabilitation services at age 16. RIDE will issue a statewide directive to local school districts to begin the transition planning process at age 14.

**Status:** The State's Transition Timeline, revised June 30, 2016, details the policies and practices that are employed by RIDE, ORS and DDD to ensure the provision of services and supports to transition age youth consistent with the requirements of the Consent Decree. The Timeline describes the services and supports that are available from RIDE, ORS and DDD throughout the transition period. DDD updated its policies and procedures to make it clear that Target Population members are able to access DD services at age 18 years. In addition to the Transition Timeline, information regarding eligibility determination, communication with families, the scheduling of needed assessments and the organization of outreach efforts related to core Consent Decree requirements is included in DDD's newly developed Consent Decree Communications Plan and in the DDD Eligibility Unit Update. ORS has not updated its policies and rules to facilitate or assist individuals to access vocational rehabilitation services at age 16 years as required. RIDE has notified school districts that transition planning shall begin at age 14 years. Specific actions and responsibilities of LEAs regarding the transition process are listed in the Transition Timeline. RIDE conducts on-site Employment First Quality Reviews with each district to assess RIDE/LEA actions and review evidence timeline activities are being implemented as required. RIDE has provided additional tools (RI Timeline Tools) for districts assist them in implementing timeline actions. RIDE reported that the LEA's have expressed concern and confusion regarding the required actions under the DDD section of the Transition Timeline.

**Assessment: Requirements Not Met.** A report on the Transition Timeline and related compliance activities issued by the Court Monitor on July 22, 2016<sup>6</sup> found that the State was in compliance with this provision. It was noted, however, that sections of the Timeline referring to the evidence to be gathered to verify that actions required by the Consent Decree were taken needed to be strengthened. RIDE is monitoring the delivery of transition services as required but, as noted above, has not provided information documenting that all transition age youth are receiving opportunities to participate in two trial work experiences as required. ORS VR counselors assigned to each secondary school are monitoring the delivery of transition services but no policies have been established to facilitate access to VR services beginning at age 16.

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<sup>6</sup> Report of the Court Monitor on United States of America v. State of Rhode Island Case Number CA14-175 Defendants Third Status Report. Issued July 22, 2016. Charles Moseley, Court Monitor.

DDD has identified key actions to be taken by the Division during the transition process and has stated its intention to name a Transition Coordinator in January 2017. The Division has developed, but not yet fully implemented, a process for evaluating the extent to which the actions listed in the Transition Timeline are being provided.

**Necessary Action:** It is requested that the following be provided to the Court Monitor by February 28, 2017:

- RIDE - information confirming that individuals in transition are offered two trial work experiences.
- DDD – documentation of the full implementation of processes for verifying that required notifications and activities described in the Transition Timeline have taken place.
- ORS – documentation that policies and/or administrative to facilitate individuals who are able to access vocational rehabilitation services beginning at age 16 have been written and implemented.

**Benchmark 8 – Transition Education and Training VIII(10).** The State, including RIDE, shall take affirmative steps to ensure that all youth in transition are not excluded from the benefits and opportunities of transition academies, and other post-secondary planning, education, and employment resources in a student's assigned school district following their exit from school. RIDE will take affirmative steps to link the parents and families of transition-age youth with IDD with information about supported employment and integrated day services and parent information networks and groups during the school year that the transition-age youth reaches age 14.

**Status:** RIDE, ORS and BHDDH are making efforts to ensure that all youth in transition are not excluded from the benefits and opportunities of transition academies, and other post-secondary planning, education, and employment resources in a student's assigned school district following their exit from school. Parents and families are receiving access to information and support to strengthen their ability to support their family members with IDD during the transition process, consistent with the provisions of the Consent Decree. Information has been furnished to the Monitor on the inputs provided by DDD, ORS and RIDE in terms of meetings, training opportunities, outreach, advocacy, information and training.

**Assessment: Requirements Met**

**F. Training (CD Section IX)**

**Benchmark 1 – Training Program Focus §IX(1)(2)(4).** Competencies and training programs will be established by the state for (a) sheltered workshop and facility based day program staff, (b) all members of career planning teams, (c) youth service professionals, and (d) BHDDH, ORS and RIDE staff. The training program addresses the development of vocational assessment/profiles, career development plans, and transition plans, job development, job coaching, employment support, benefits counseling, supported employment and integrated day services and placements, intake and vocational rehabilitation services, and service coordination.

**Status:** The competency-based values-based training program standards were developed by the ORS and BHDDH in collaboration with the Employment First Task Force and approved by the Monitor on June 19, 2015. The curriculum requires providers to be able to demonstrate job development and job coaching competencies based on ACRE-approved, evidence-based training standards for supported employment. Program standards allow for training to be provided



utilizing other curricula certified or approved by the State as long as the curricula reflect ACRE training standards.

**Assessment: Requirements Met**

**Benchmark 2 – Staff Training §IX(3).** The State ensures that all persons involved in the discovery and assessment process, the preparation and implementation of career development plans and the provision of supported employment and integrated day services, and placements for members of the Target Populations have completed necessary training and have attained and retain the required competencies.

**Status:** DDD and ORS training requirements set out in Section III(c) of the State’s approved competency-based values-based training program include the following provisions:<sup>7</sup>

- Provider agencies must document the necessary employee qualifications and/or have completed the necessary programs.
- Provider agencies must annually submit such documentation to BHDDH and ORS on a form specified by the State.
- By September 1, 2016, the State Consent Decree Coordinator’s Office will maintain a list of all ACRE approved and State-endorsed programs, a list of all State- approved refresher programs and a calendar of trainings.
- Service vendors and providers are responsible for insuring that all employment staff have appropriate qualifications or are working towards achieving qualifications by December 31, 2016 and for annually providing relevant documentation to ORS and BHDDH.
- ORS vendors are reviewed annually and as needed by ORS’ Supported Employment QA Task Force. A review by a provider may also be triggered by feedback from staff, clients, the community, or if an issue arises.
- BHDDH providers will be reviewed on an annual basis, if an issue arises, and as needed by the Division of Developmental Disabilities.

DDD has extended the timeline for certifying DD provider agency staff members who are involved in supported employment services by six months to July 1, 2017 pursuant to revised regulations. This extension was deemed necessary to allow sufficient time for Provider agency staff to take advantage of online training through the College of Employment Supports, purchased in October 2016 under the Conversion Institute contract. After July 1, 2017 the review of credentialed staff will be conducted on an annual basis, during licensing surveys or as

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<sup>7</sup> Pre-Qualification Requirements and Competency-Based and Value-Based Training Program. The Department of Behavioral Healthcare, Developmental Disabilities, & Hospitals and the Department of Human Services Office of Rehabilitation Services.

precipitated by any quality incident relating to staff competency in the area of supported employment

Currently, the only RI-based training program that is ACRE-approved is the “Supporting Meaningful Employment (SME)” training conducted by The Sherlock Center on Disabilities. A total of seven training sessions were completed during the Spring, Summer and Fall of 2016. A “Supporting Meaningful Employment Mini-Series” provides participants with a certificate in specific skill areas: Vocational Assessment and Employment Planning, Job Development, and Job Retention and Coaching. Participants can earn ACRE Certification by completing all three SME Certificates, along with the required fieldwork assignments, within a 24-month period. During the Spring, Summer and Fall of 2016, four SME mini sessions were provided on vocational assessment and employment planning, four mini sessions were offered on job development and ten mini sessions were provided on job retention and coaching. Participation in the training programs has increased over the past year with a total of 82 individuals receiving training during 2015 and 314 persons trained during 2016 (see Table 4).

| Table 4<br>Supporting Meaningful Employment<br>Training Participation and Certification |                       |                          |                    |                               |       |
|-----------------------------------------------------------------------------------------|-----------------------|--------------------------|--------------------|-------------------------------|-------|
| Year                                                                                    | ACRE<br>Certification | SME Mini Certification   |                    |                               | Total |
|                                                                                         |                       | Vocational<br>Assessment | Job<br>Development | Job Retention<br>and Coaching |       |
| 2015                                                                                    | 54                    | 14                       | 0                  | 14                            | 82    |
| 2016                                                                                    | 164                   | 27                       | 20                 | 103                           | 314   |
| Total                                                                                   | 218                   | 41                       | 20                 | 117                           | 396   |

Training is a key component of BHDDH’s performance based incentive payment program, the Person-Centered Supported Employment Performance Program. Participating agencies are required to provide the names and credentials of all employment team members, as well as the names of those currently enrolled in training.

A Joint BHDDH/ORS Committee on Training was established and met on October 26, 2016 to map out the criteria, protocol, application and approval process for additional training programs and entities that may apply for State endorsement. Plans call for the application procedure to be completed by December 31, 2016. Information on approved training programs and vendors will be posted on the BHDDH website and shared with the stakeholder groups.

RIDE provides ongoing documentation of the training being provided through the Teachers of Life Skills Network (TLS) and the Regional Transition Centers and regional coordinators to teachers and LEAs consistent with Consent Decree requirements. During the 2015-16 school year technical assistance focused on developing teachers’ knowledge of career development as the foundation for meaningful Career Development Planning. Specific technical assistance was provided to teachers working with students with severe and/or multiple disabilities. TLS training sessions are now aligned to Key Elements, Knowledge and Skills Standards of The CEC Advanced Special Educator Transition Specialist Competencies. TLS convened on May 11, 2016 for an End of Year “Wrap Up” to review the efforts of the TLS Network related to the Consent Decree, share experiences with Employment First, career development planning, trial work

experiences, identify barriers and additional training needs. Forty teachers attended the session.

**Assessment: Not Met.** Progress is being made on the provision of training to provider agency staff. RIDE is meeting the requirements of this provision through the department's ongoing efforts to provide technical assistance and education to teachers and staff. DDD and ORS have provided training and are implementing training programs to ensure that appropriate provider agency staff have received necessary training and attained the competencies required by the Consent Decree. While both agencies report that expanded training efforts are underway, the numbers of provider staff who have meet required training requirements falls short of the performance benchmark. Continued and expanded efforts need to be made by DDD and ORS to meet this requirement.

**Recommended Actions.** To comply with this provision, DDD and ORS are requested to develop a mechanism for providing regular reports to the Monitor on the number and percentage of employment and day support staff in each provider agency who are trained and certified, consistent with the requirements of Provision IX(3) of the Consent Decree by February 28, 2017.

#### **G. Outreach, Education and Support (CD Section X)**

**Benchmark 1 – Program Development §X(1), (2).** Develop the Outreach-In Reach and Education Program as described in this section and receive the approval of the Monitor.

**Status:** The State's Out-Reach In-Reach Education Program received final approval from the Monitor on June 14, 2016.

#### **Assessment: Requirement Met**

**Benchmark 2 – Employment First Task Force §X(3).** By May 1, 2014, the State will create an Employment First Task Force that will include, but will not be limited to, representatives of the technical assistance entities discussed in Section XII, the Community Provider Network of Rhode Island, the Paul V. Sherlock Center on Disabilities at Rhode Island College, the Rhode Island Disability Law Center, the Rhode Island Developmental Disabilities Council, the Rhode Island Parent Information Network, the Rhode Island Business Leadership Network, individuals with IDD, and parent and family representatives.

The Task Force will meet with the meet with the Monitor and State officials on a quarterly basis to discuss the successful implementation of the Consent Decree and produce policy recommendations, research and information pertaining and have a role in providing in-reach, outreach, education, transition and linkage activities.

**Status:** The Employment First Task Force has been meeting with some regularity over the past several months. Self-advocates, families and provider agency representatives indicate that they attend meetings and share information. Participants report that focus primarily is on information sharing. The Task Force has the potential of playing a constructive role in the State's efforts to change and improve IDD services and supports consistent with the requirements of the Consent Decree. Unfortunately, this potential has not been fully realized. Early on, the group was instrumental in developing the value-based, competency-based training

program and the in-reach outreach education program. During the past year, the Task Force has provided an important forum for providers, families, advocates and people with disabilities to share concerns and voice their perspectives on the actions the State is taking to comply with the provisions of the Consent Decree.

While meetings are taking place, key requirements of the Consent Decree are not being met. During the current reporting period the Task Force did not meet with the Monitor on a quarterly basis as is required by the Consent Decree. Except for one instance the Monitor has not been routinely invited to participate in quarterly meetings, has not been provided with a schedule of future meetings and has not, with one exception, receive minutes of the meetings that have taken place. The Monitor did receive minutes from the meeting held on May 10, 2016. Similar concerns have been expressed by state officials, who report that they do not receive notice of meetings in advance and are not routinely invited to quarterly meetings. The Task Force has not provided policy recommendations, researched issues or disseminated information as required by the Consent Decree. State officials further express that they are very willing to participate in meetings as deemed appropriate by the Task Force members and that, at a minimum, they will attend quarterly meetings designated for this purpose by the Task Force. State officials have expressed enthusiasm for receiving the policy recommendations of the Task Force and have communicated that they would welcome opportunities to meet with and gain the perspectives and recommendations of Task Force members.

**Assessment: Requirements Not Met.** The Employment First Task Force is not meeting its charge as outlined in the Consent Decree. No policy recommendations or reports on the status of barriers to Consent Decree implementation have been issued.

The Task Force functions as an independent, voluntary group of advocates and stakeholders who are not directly involved in state agency operations. The Consent Decree outlines a short list of requirements, but leaves decisions regarding leadership, organization, member responsibilities and operational policies that are necessary to ensure that the identified tasks and obligations are completed to the Task Force's discretion. Although it is charged with responsibility for making policy recommendations, the Agreement does not specify to whom such recommendations are to be made nor the nature or intent of any research to be conducted or information to be disseminated. As an independent body, the Task Force does not have administrative support or oversight by any state agency.

The Task Force has the potential to provide an independent and meaningful role in supporting the ability of the State to accomplish the reforms identified by the Consent Decree, and the ability of individual members of the Target Populations to receive the services and supports to which they are entitled. But change needs to take place if the Task Force is to achieve its full potential.

**Recommended Actions:** The following actions are recommended. Focus should be directed toward providing needed structure without compromising the separate and independent voice of advocates and stakeholders:

1. It is recommended that the Task Force submit its reports, findings, analyses and recommendations to the Executive Office of Health and Human Services (EOHHS) and the Court Monitor, along with other entities as determined by the Task Force. EOHHS is requested to make administrative support available to the Task Force, as the Task Force deems appropriate, to assist the group in carrying out its mission, roles and responsibilities.

2. The Task Force Chairperson in collaboration with the Deputy Secretary of EOHHS, are requested to convene a small work group of key individuals including representatives of the Community Provider Network of Rhode Island, the Paul V. Sherlock Center on Disabilities, the Rhode Island Disability Law Center, the Rhode Island Developmental Disabilities Council, Advocates in Action, the Rhode Island Parent Information Network, individuals with I/DD, parents and families, and state agency representatives to:
  - a. Review and reach agreement on the role, purpose, leadership, structure and functioning of the Employment First Task Force with respect to: leadership, including tenure and responsibilities; decision making practices (simple majority or consensus); the role of subcommittees and the relationship between subcommittees and the full body; group purpose and focus; and actions needed to ensure the participation of self-advocates.
  - b. Clarify the roles and responsibilities of Task Force members, including expectations for membership and participation, the outcomes to be achieved and the audiences with whom the outputs of the Task Force will be shared.
  - c. Clarify the role and responsibilities of state agency officials from BHDDH-DDD, ORS and RIDE with respect to their responsibilities for: (a) regularly attending meetings, (b) reporting on State activities and progress on meeting the Consent Decree objectives and outcomes, and (c) responding to requests from Task Force members for information, follow-up or logistical support.
  - d. Determine points of overlap or interaction between existing policy-related committees managed by BHDDH, ORS and RIDE and the activities to be completed or addressed by the EFTF.
  - e. Prepare an annual report to the Monitor, the State and for public dissemination, that identifies barriers to successful implementation of the Consent Decree, recommendations useful in addressing the barriers, best practices, and suggested actions to assist individuals in the Target Populations successfully transition to integrated employment and day settings.

The Task Force Chairperson is requested to report to the Monitor on the convening of the work group discussed in subsection 2 above and the gathering of preliminary recommendations from the work group regarding improved functioning of the Employment First Task Force by February 28, 2017.

#### **H. Provider Capacity** (CD Section XI)

**Benchmark 1 - Developing Provider Capacity §XI (1)&(2).** BHDDH and ORS will ensure provider capacity that is sufficient to furnish supported employment and integrated day services to individuals in the Sheltered Workshop, Day Program and Youth Exit Populations.

**Status:** DDD and ORS report that the current provider agencies and individuals are sufficient to meet the increased needs for supported employment and integrated day services and supports required by the Consent Decree. But families of individuals with IDD who are requesting DDD services for the first time have reported to the Monitor that access to needed supports has been

prevented or delayed by providers who refuse to accept new referrals. Provider refusals appear to be directly linked to DDD payment rates and rate setting practices. The State's approval of increased funding for individuals receiving DDD services, the implementation of performance based incentive payments by DDD and ORS that include additional support for staff training, and the release of funding to assist providers in making structural changes to convert sheltered workshops and center-based programs to integrated alternatives are expected to significantly decrease provider refusals and increase access to services.

**Assessment: Requirement Not Met.** DDD and ORS have sought to improve Target Population Members' access to providers by increasing individual funding and staff training requirements. Although practices have been implemented and clear progress has been made, it is too early to determine whether the procedures and policies will have the intended impact. This provision will be monitored to ensure that the intended outcomes are being achieved and provider access is sufficient to meet the requirements of the Consent Decree.

**Recommended Actions:** The State is requested to gather and report data from provider agencies on the numbers of individuals eligible for DDD and/or ORS services who were denied services during the periods: July 1, 2016 through December 31, 2016; January 1, 2017 through March 31, 2017; and April 1, 2017 through June 30, 2017. The report should identify the service provider, the reasons for service refusal or delay, the length of the delay, and recommendations for improving access to services. It is requested that the first report covering July 1, 2016-December 31, 2016 be provided to the Monitor by February 28, 2017.

**Benchmark 2 – Ensuring Staff Capacity §XI(2).** BHDDH and ORS will ensure provider organizations have sufficient capacity with respect to trained staff, staff supervision, appropriate policies and procedures and quality improvement programs to deliver services and supports required by the Consent Decree.

**Status:** DDD and ORS are taking actions to build the capacity of provider agencies to attract and retain trained staff, provide adequate numbers of staff and staff supervision, and deliver services consistent with the Consent Decree. The State's approval of increased funding for individuals receiving BHDDH services, the implementation of performance based incentive payments and the release of funding by the Conversion Trust Fund to assist providers in making structural changes to convert sheltered workshops and center-based programs to integrated alternatives are expected to increase staff capacity and capability. The State also provided funding to increase the salaries of direct support provider staff and job coaches.

**Assessment: Requirement Not Met.** The State, including DDD and ORS, have taken a number of actions to increase the numbers of trained staff, increase wages of existing staff, expand and improve training and build provider staff capacity. ORS and BHDDH have both developed performance based employment programs. ORS' performance based program works with seven agencies to increase capacity to support employment services through employment teams. ORS and DDD have agreed to work with other states to learn how the two performance based employment programs can best work in conjunction to support the maximum number of individuals in the most effective way. Clear progress has been made in this area but it cannot yet be said that provider agencies have the full array trained staff needed to ensure the provision of services and supports required by the Consent Decree.

**Benchmark 3 – Provider Prequalification Requirements §XI(3).** By September 1, 2014, the State will establish, implement and enforce pre-qualification requirements for all supported



employment and integrated day services providers that furnish services to the Consent Decree's target populations.

**Status:** DDD and ORS developed and are implementing pre-qualification requirements as described in the State's Competency Based and Value Based Training Program. An individual provider must complete either an ACRE approved program or a training program aligned with ACRE standards and/or APSE competencies and endorsed by the Department of Behavioral Healthcare, Developmental Disabilities, & Hospitals, and the Office of Rehabilitation Services (State-endorsed program). All programs must include a minimum of 12 hours of coaching/mentoring by an experienced employment specialist within three months of completing the training program and will receive ongoing coaching/mentoring as needed. Additional requirements and provisions are identified in the Competency Based and Value Based Training Program.

**Assessment: Requirement Met**

**Benchmark 4 – Incentives to Encourage Transition to Integrated Settings §XI(4)&(7).** The State is responsible for creating incentives to encourage transition from sheltered workshops, facility based day programs and secondary schools to integrated employment and integrated day settings. The State will implement incentives through public-private partnerships with people with IDD, families, service providers, community organizations and others.

**Status:** The State has implemented performance-based financial incentives to stimulate provider organizations to increase the number of individuals receiving supported employment services through the Person-Centered Supported Employment Program at both DDD and ORS. Additional changes to policies and practices have been implemented to reduce or eliminate barriers to the expansion of supported employment and integrated day services. However, specific incentives designed to encourage the transition of services and supports to integrated employment and day service alternatives have not been developed through public-private partnerships as required by these provisions. It is important to note that ORS, BHDDH, the Department of Labor and Training (DLT), and the Governor's Workforce Board have begun initial collaboration toward these ends and are now working together on a regular basis to stimulate public-private partnerships. Early examples of progress include meetings with employers including a Providence Chamber of Commerce breakfast meeting to share information on the value of these public-private partnerships for individuals with disabilities. This joint initiative by ORS, BHDDH, DLT and Governor's Workforce Board was launched in the summer of 2016.

**Assessment: Requirement Not Met.** Significant progress is being made on this requirement but specific initiatives have not yet been implemented.

**Benchmark 5 – Monitoring, Oversight and Technical Assistance §XI(5).** The State will provide monitoring, oversight, and technical assistance to ensure supported employment providers use evidence informed employment practices, have adequate staffing, organizational support and supervision, and use effective business models to meet the goals and outcomes of this Consent Decree. The State will develop and publicize its oversight processes and provide mechanisms for individuals with IDD, their families, service providers, and advocates to file complaints which will be addressed by the State in a timely fashion.

**Status:** See Section L Quality Improvement below

**Assessment: Requirement Not Met**

**Benchmark 6 – Promoting Supported Employment Placements in Public Agencies and Private Industry §XI(6).** The State will Identify and promote Supported Employment Placements in state and federal agencies and in private industry on a statewide basis; and will develop relationships with public and private employers based on the benefits to businesses of hiring people with disabilities.

**Status:** DDD and ORS, have been meeting regularly, about once a month, with providers, private businesses and other state agencies including AccesspointRI, CVS, Home Depot, Real Jobs RI (The Governor’s signature workforce development initiative) and the RI Department of Labor and Training to promote employment opportunities and the hiring of people with IDD and other disabilities receiving public support. DDD, ORS and AccesspointRI report that productive and preliminary discussions have been held regarding adult Project Search programs with the Community College of Rhode Island and Amica Insurance Company as partners in the project. Additional events are scheduled to bring together state agencies, providers and private industry to promote community based integrated employment as the first option for people with disabilities in the state.

**Assessment: Requirements Met.** The need to promote Supported Employment Placements in private industry and within state and federal agencies is an ongoing objective of the Consent Decree that should be expanded and refined over time with the goal of developing long term relationships with key private industry leaders, local Chambers of Commerce, and other state, local and federal agencies.

**Benchmark 7 – Development of Procedures to Assist Individuals Transition to Integrated Settings §XI(8).** By July 1, 2015, the State will develop procedures to require provider staff to assist in the transition of individuals from Rhode Island sheltered workshop settings and facility-based day settings to Supported Employment Services and Placements. The procedures will provide incentives and support to qualified providers of sheltered workshop services upon the effective date of this Consent Decree to begin to convert their employment programs to Supported Employment Services so that the providers’ services are converted primarily to Supported Employment Services once the terms and conditions of this Consent Decree are met, at the expiration of this Consent Decree.

**Status:** DDD’s newly implemented Person Centered Supported Employment Program provides funding incentives to qualified supported employment providers that reflect both training and performance expectations (See Section K. Funding below). In addition to DDD’s program, ORS has developed and introduced a new performance based service pilot with seven agencies to help with increasing capacity to the providers to provide supported employment services through employment teams and in a manner that the “money follows the person.” ORS and DDD have agreed to work with other States to determine how the two programs can best work in conjunction to support the maximum number of clients in the most effective way. Additional incentives for providers working to convert sheltered workshop and facility-based services to supported employment are built into the supports received by providers that have applied for and received additional funding from the Conversion Institute. It is important to note, however, that DDD has not yet offered financial incentives distinct from the Person-Centered Employment Services incentives to provider agencies that have not

expressed an interest in participating in the Person-Centered Supported Employment finding program, nor to provider agencies that have not received funding from the Conversion Trust Fund to shift service delivery to integrated day and employment settings.

**Assessment: Requirements Met.** The State has taken important steps to address this provision. Progress on assisting individuals' transition to integrated settings will be examined and evaluated in subsequent reports.

**Benchmark 8 – Establish a Sheltered Workshop Conversion Institute §XI(9).** By October 1, 2014, the State will establish a Sheltered Workshop Conversion Institute.

**Status:** The Conversion Institute's structure, financing, and operational principles were established in October 2014 to carry out six key functions including: (a) information dissemination; (b) training; (c) the establishment of Focus Groups to determine the needs of provider agencies; (d) creation of an application and process for the distribution of Trust Fund dollars; (e) provision of targeted training, technical assistance, coaching and mentoring; and (f) data collection and reporting. Training and technical assistance has been provided to the nine agencies involved in the Institute's system change initiative as well as to other IDD service providers statewide.

**Assessment: Requirement Met.**

**Benchmark 9 – By October 1, 2014 establish and begin distributing a Sheltered Workshop Conversion Trust Fund in the amount of \$800,000 to provide upfront startup funding for providers to convert their sheltered services to supported employment services §XI(10).**

**Status:** The Legislature approved the Governor's request for \$800,000 to establish the Sheltered Workshop Conversion Trust Fund, under the supervision and monitoring of BHDDH. An application format and review process were established and resources were made available to nine sheltered workshop provider agencies to defray some of the initial costs incurred in the conversion of their sheltered programs to integrated day and employment supports. The application process required provider agencies to perform a self-assessment to identify their organization's strengths and needs before developing plans for conversion to supported employment services. Each qualified provider submitted a detailed Conversion Plan to the Trust Fund Administrator, BHDDH, and receives ongoing technical assistance from the Conversion Institute. The review and system change planning process took longer than anticipated. Final approvals for funding were not announced until March 2016. Following several delays, funding was provided to all nine qualifying provider agencies by July 27, 2016.

**Assessment: Requirement Met**

## **I. State and Other Agency Actions (CD Section XII)**

**Benchmark 1 – Securing Technical Assistance §XII(1-5).** By July 1, 2014, the State, including BHDDH, ORS, and RIDE, will identify and pursue contracts with technical assistance providers, to provide leadership, training, and technical assistance to employment providers and to the State staff involved in assessing, planning, and providing Supported Employment Services. Additional areas to be addressed include the development of new supported employment providers, assisting day service providers in the development and operation of integrated, community based day

services and day only placements for members of the target groups, and assisting providers transition from sheltered work to integrated employment.

**Status:** BHDDH engaged the Sherlock Center to provide ongoing training programs and seminars. Sherlock Center activities include, but are not limited to: participating in the review of Sheltered Workshop Trust Fund applications; facilitating the development of detailed transition work plans with each sheltered workshop; providing technical assistance to all service providers on: person-centered planning, DSP workforce development, expanding integrated day services through community mapping, expanding supported employment services through providing necessary training aligned with required competencies; supporting data collection and reporting requirements/compliance tracking through the Sherlock Employment and Day survey; providing technical assistance to the Division on outcome-based systems redesign; and expanding capacity and competency through the creation of communities-of-practice in the areas of provider conversion, integrated employment and day services.

Additional technical assistance has been secured by BHDDH-DDD, ORS and RIDE from other sources.

**Assessment: Requirements Met**

**J. Interagency Collaboration (CD Section XIII)**

**Benchmark 1 - Memorandum of Agreement §XIII(1)(a)-(e).** By October 1, 2014, the State will develop and implement one or more interagency agreements or memoranda of understanding between BHDDH, ORS, and RIDE designed to ensure the full implementation of this Consent Decree.

**Status:** A comprehensive Cooperative Agreement was developed and signed by representatives from RIDE, BHDDH and DHS on January 13, 2016. The agreement sufficiently addresses the provisions of this section. An additional, Data Sharing Agreement, was developed and fully executed in March 2016. This agreement establishes policies and procedures by which information on individuals receiving services and supports, including personally identifiable information and personal health information, will be shared between and among the three state agencies, RIDE, ORS and BHDDH. Completion of the two agreements is a significant milestone, making it possible for the State to effectively measure and track performance on key Consent Decree benchmarks and outcomes.

**Assessment: Requirement Met.**

**K. Funding (CD Section XIV)**

The Consent Decree obligates the State to provide and adequately fund integrated supported employment and day services to each member of the agreement's four Target Populations. Specific provisions additionally require the State to support and provide, or ensure the provision of, key activities to improve provider capacity, workforce training, infrastructure development, quality improvement, data collection and management, stakeholder participation and the achievement of key performance outcomes. Many if not most of the Consent Decrees' provisions reference detailed funding related requirements. Court Orders issued by the Judge on March 3, 2016) and May 18, 2016 required the State to take a number of actions to fully fund service related obligations. The State's progress on meeting these financial and other requirements is described above as well as within Court Monitor Reports issued on July 1, 2016 and on September 9, 2016.

**Benchmark 1 - Ongoing Funding Allocations §XIV(1)-(3), (5), (6).** The State shall ensure that all individuals in the Rhode Island Sheltered Workshop, Rhode Island Day, and Rhode Island Youth Exit Target Populations have ongoing allocations to support gaining, maintaining, or improving employment outcomes and for integrated day services consistent with the standards and timelines of the Consent Decree. The State will: reallocate resources as individuals move from sheltered workshops to integrated supported employment and day services, adequately fund transportation services, develop and implement performance based provider contracts, and will utilize a flexible reimbursement model for day activity and supported employment services..

**Status:** Funding for services and the development of performance based, incentive based contracts is addressed in the State's First, Second, Third and Fourth Status Reports filed with the Court in response to the Court's Orders issued on March 3, 2016 and May 18, 2016.

RIDE made an ongoing commitment of over \$300,000 per year each year for FY15, FY16 and FY17. These funds support personnel and contracts focused on the implementation of the Consent Decree requirements. ORS' funding for employment services for Consent Decree target population members was tripled for the 2017 fiscal year from \$884,370 in FY15 to \$2,603,374 in FY17. ORS expanded employment services to individuals with intellectual and developmental disabilities from roughly 233 target population members in FY15 to upwards of 560 projected target population members to be served in FY17.<sup>8</sup>

Following the Court's Order of May 18, 2016, the Governor amended the DDD budget request and proposed an increase the general revenue funding to \$122,540,564.<sup>9</sup> The amount finally approved by the General Assembly and signed by the Governor on June 21, 2016 was \$119,651,536 in general revenues and a total budget commitment of \$246,242,419. This represents an increase of \$11,019,387 over the original request.

**Assessment: Requirements Met.** Each individual receiving BHDDH services has received an individualized allocation for services. Funding is individualized and follows the person as he or she moves from sheltered workshop or facility based day services to integrated supported employment and day services. The State has provided funding in the FY 2017 budget that is adequate to meet the support services and activities required by the Consent Decree. The reimbursement model for day services appears sufficiently flexible to allow providers to be reimbursed for costs as identified in Sections XIV(5) and (6) of the Consent Decree. Providers may request changes in an individual's funding allocation that are necessary to adequately fund services based on the individual's identified needs. BHDDH has improved its ability to respond to such requests in a timely manner although continued efforts need to be placed on responding to requests for funding changes or enhancements in a timely manner. It is important to note, however, that the DDD's allocation methodology does not provide upfront or set-up funding that may be needed by service providers to develop the staff and administrative capacity to expand supported employment services to meet Consent Decree placement benchmarks except as provided for in the Person-Centered Supported Employment Services Program incentives for

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<sup>8</sup> For additional information see State of Rhode Compliance Status Report (First Status Report). Case 1:14-cv-00175-M-PAS. ECF Document 16. Filed 4/1/16.

<sup>9</sup> For additional information see Report of the Court Monitor on the Defendants Third Status Report. Case 1:14-cv-00175-M-PAS. ECF Document 38. Filed 7/22/16.

staff certification and ability to bill for supported employment services at the point of enrollment of clients in the program. This issue will be closely monitored during the following months.

**Benchmark 2 – Performance Based Contracts §XIV(4) & (6).** By January 1, 2015, the State shall develop and implement performance-based contracts for Supported Employment Services to individuals in the Target Populations, linking funding to the provider’s achievement of numerical targets and implementation timelines.

The Court’s Order of May 18, 2016 required BHDDH to develop and implement a supported employment services incentive program. Three provisions of the Order directed the State to take a series of actions to come into compliance with this requirement by August 1, 2016:

- *Provision 5(k)* - Implement a new reimbursement model for services including but not limited to, career exploration/discovery, situational assessments, work trials, development of job seeker profiles, and other services.
- *Provision 5(l)* – Implement a new service package design that includes a service authorization for supported employment services.
- *Provision 5(m)* – Implement performance based contracts for supported employment services to individuals in the target populations that links funding to graduated levels of provider achievement of quality numerical targets and implementation timelines.

**Status:** As reported in the Court Monitor’s review of the State’s Fourth Status Report issued on September 9, 2016,<sup>10</sup> BHDDH developed and began implementation of the *Supported Employment Services Package – Person Centered Supported Employment Program*. The program description, revised and reissued on September 3, 2016, details the purpose of the program, the amount of funding, program structure and implementation plan, target population requirements, performance payments, and program management activities including data tracking and continuous improvement. The incentive based funding and operation program directly ties reimbursement rates and incentives to provider performance, as required. ORS has also developed and introduced a new performance based service pilot with seven agencies to help with increasing capacity to the providers to provide supported employment services through employment teams and in a manner that the “money follows the person.” This pilot is separate from DDD’s new performance based program, but ORS and DDD have agreed to work with other States to determine how the two programs can best work in conjunction to achieve maximum impact.

**Assessment: Requirements Met.** The State has prepared and disseminated a structure and implementation plan for performance based provider contracts that incentivize the delivery of integrated supported employment. Individual meetings between both BHDDH and ORS and

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<sup>10</sup> Report of the Court Monitor on United States Of America V. State Of Rhode Island Case No. CA14-175 Defendant’s Fourth Status Report Filed July 29, 2016 and Revised on September 3, 2016. Case 1:14-cv-00175-M-PAS Document 43 Filed 09/09/16.



provider agencies are currently taking place. The State is found to be in compliance at this time but performance will be monitored closely during the weeks and months ahead to ensure that the outcomes of the State's initiative fully meet the intentions, objectives and goals of this provision.

**Benchmark 3 Supports Intensity Scale §IV(7)** - By September 1, 2014, BHDDH will issue a directive to ensure that the Supports Intensity Scale ("SIS") assessment process, set forth under Project Sustainability, is administered with the presumption that individuals with the most severe disabilities can work in integrated settings and receive the services and supports necessary to do so. BHDDH shall: (a) ensure family members and guardians have an active role in the SIS administration process for individuals in the Target Populations; (b) require that individuals administering the SIS assessment are knowledgeable about, and have experience working with individuals with IDD, and have received an appropriate level of training and certification, consistent with Section IX of this Consent Decree; (c) ensure that resource allocation decisions are made by BHDDH staff in a manner that is consistent with individuals' support needs; (d) ensure BHDDH staff who administer the SIS assessment work in a separate, autonomous unit from the BHDDH staff who administer the resource allocations; (e) ensure resource allocations are annually reviewed by an external consulting group and (f) furnish to the Monitor any and all written reports, including those authored by Burns & Associates, pertaining to BHDDH's administration of the SIS tool, resource allocation decisions and documentation of the level of training and certifications for surveyors.

**Status:** The State's compliance with provisions IV(7)(a)-(f) is described in the Monitor's Progress Report issued August 17, 2015. Additional actions were taken in subsequent months to improve the administration of the Supports Intensity Scale (SIS) to better assess service and support needs for individuals living with developmental disabilities in response to the requirements set out in the Court's Order issued on May 18, 2016 (for a review of the state's actions see the Report of the Court Monitor on the Defendant's Third Status Report issued on July 22, 2016 and the Report of the Court Monitor on the Defendant's Fourth Status Report issued on September 9, 2016). In summary, the State took the following actions:

- a. Improved communications with individuals and families regarding the status of pending services and the eligibility determination requests. The plan identifies a process by which members of BHDDH's Eligibility Unit will meet with the individual and family to explain the State's procedures for assessing individual support needs and allocating funding, as well as eligibility determination and other activities (Court Order Provision 5(c)).
- b. Revised BHDDH Policy SIS-4 to include the provision that all decisions and changes regarding tier assignments are made by an independent entity solely on the basis of individual support needs as indicated by the SIS assessment separate and apart from resource allocation considerations (Court Order Provision 5(e)).
- c. Provided additional training to SIS interviewers and assessors on the changes to SIS Policy No. 4 Service Tier Policy/Assigning Resource Allocation (Court Order Provision 5(f)).

In November 2016, the Division adopted a new version of the SIS instrument, the SIS-A, which includes new questions to better determine individual's support needs. An information session was held on November 17, 2016 to inform individuals and families of the new assessment tool.

The session featured a senior SIS trainer from the American Association on Intellectual and Developmental Disabilities (AAIDD), which developed and licenses the use of the assessment.

**Assessment: Requirement Met.** Although the State has met the requirements of the Consent Decree and the Court Order related to the use and administration of the SIS, families and providers continue to report frustration with the administration of the SIS assessment tool by the assessors, the process for determining an individual's support needs, and the use of the instrument for determining the level of funding an individual will receive. DDD officials acknowledge the need to improve communication with individuals, families and providers and have identified the steps being taken to improve the SIS administration process as well as the State's ability to respond to complaints and concerns.

#### **L. Quality Improvement (Section XV)**

**Benchmark 1 - QI Program §XV(1).** By November 1, 2014, the State will develop and implement a statewide quality improvement initiative to ensure individual, integrated supported employment placements and services and integrated day services and integrated day-only placements are: (a) developed and provided in accordance with the Consent Decree, (b) evaluated to ensure quality and quantity of supported employment and integrated day services provided, and (c) adequate and sufficient to ensure that individuals in the Sheltered Workshop, Day, and Youth Exit Target Populations who receive supported employment placements and integrated day services under the Consent Decree achieve integration, increased independence, and increased economic self-sufficiency.

**Status:** The first Monitor's Progress Report issued August 17, 2015 recommended that the State take several actions regarding the development of a quality initiative, the establishment of program standards, to develop clear program standards, and the implementation of a process for identifying and remediating deficiencies through on-site reviews and follow up activities. Required restructuring activities and reports were not completed and submitted to the Monitor. At the Monitor's request a report on Quality Improvement activities conducted by DDD and ORS was provided on March 30, 2016.

To date, the single Quality Improvement initiative has not been implemented. Instead, the assessment of service quality is, with some overlap, taking place separately by RIDE, DDD, and ORS.

RIDE links the evaluation of quality to the goals and outcomes identified in the RI Transition Timeline. Working in collaboration with the Regional Transition Centers RIDE implemented the RI Employment First Quality Review Checklist to support the states Quality Improvement Initiative. The checklist is completed during an on-site visit to assist in identifying barriers, deficiencies, gaps and additional training needs and technical assistance needed to meet the requirements of the Consent Decree. Quarterly Reports summarize the quality improvement activities that have taken place as well as key content or programmatic areas to be improved, training and technical assistance needs of the LEAs. To date, all LEA's have participated in the on-site reviews. Each review documents the barriers and challenges LEAs experience, as well as the technical assistance needed to resolve the identified barriers.

ORS organized a QI unit within the Office of Rehabilitation Services to review and monitor the quality of services offered by ORS vendors. Staff take time from other duties to organize site visits, conduct quality improvement reviews and document findings and recommendations. In

June 2016, ORS officials reported that approximately six staff were involved in the review process and approximately three to four agencies were reviewed each year. At this rate it would take approximately nine years to review all 36 agencies. Additional information on provider agency performance is gathered by ORS field staff and reviewed by administrators on an ongoing basis. VR Counselors are assigned to liaison with DD provider agencies, meeting on a monthly basis to review administrative activities, discuss individual and systemic barriers, service quality and Consent Decree related activities. In March and April 2016, ORS led a joint QI review with DDD of one provider agency, Community Work Services. A report was issued on May 31, 2016 addressing participant access, person-centered service planning and delivery, provider capacity and capability, participant safeguards, rights and responsibilities, participant satisfaction, and system performance. Reports of additional reviews have not been provided to the Monitor.

DDD hired an Associate Director for Quality Improvement to organize, manage and monitor quality improvement activities throughout the DD Division and to coordinate with the QI efforts of all agencies involved in the implementation of the Consent Decree. Responsibilities include not only the implementation of the QI initiative required by the Consent Decree, but also quality assurance and improvement activities that must be carried out for Medicaid funded home and community based services of all types. No other staff are assigned to conduct quality reviews at DDD on a full time basis. A separate Quality Improvement Office within BHDDH is fully staffed and routinely conducts investigations on complaints filed by those who receive services from BHDDH contracted agencies. This unit also assesses provider qualifications and the extent to which provider agencies meet general licensing and operational requirements. The State reports that the the Associate Director for Quality Improvement within DDD will work closely with other QI staff from BHDDH, ORS and RIDE on to improve quality of Consent Decree related services. As with ORS, responsibility for reviewing the quality and responsiveness of services furnished by provider agencies is shared by the employment specialist and staff in the department who each have other duties and responsibilities.

**Assessment: Requirement Not Met.** To date, the State has not developed and implemented a single statewide quality improvement initiative as required by the Consent Decree. While BHDDH and ORS have been collaborating on their assessment of supported employment providers, in general, activities are compartmentalized, reflecting the separate operational requirements of each State agency. This approach takes advantage of available staffing resources across the agencies and allows separate policies and practices to be more easily tailored to meet existing regulations and policies, but without careful alignment across agencies it can present barriers to implementing the QI provisions of the Consent Decree in a coordinated and effective manner statewide.

RIDE has met most of the provisions of this requirement. ORS and DDD have taken initial steps to addressing this provision of the Consent Decree. ORS established a quality improvement unit within the organization and DDD hired a new administrator to focus on quality improvement activities. The two agencies have reviewed one provider organization during the past year.

To better assess current and planned activities that are taking place within RIDE, ORS and DDD, the Monitor has performed a comprehensive evaluation of the State's QI systems to determine compliance with Sections XV(1)-(5) of the Consent Decree. The review was completed on December 8, 2016 and a summary report will be issued with recommendations .The assessment of this provision and sub-provisions is deferred until February 28, 2017.

**Benchmark 2 – Program Standards §XV(2).** By November 1, 2014, the State will establish detailed program standards for transition planning and services, career development planning, benefits planning, Supported Employment Services, Integrated Day Services, and Supported Employment and Integrated Day-Only Placements, that include the definitions, standards, and processes set forth in Sections V, VI, VII, and VIII.

**Status and Assessment: Requirement Not Met.** Full assessment deferred until February 28, 2017

**Benchmark 3 – Regular On-site Reviews, Reports and Follow-up Reviews §XV(3), (4), (5).** Through its quality improvement initiative, the State will regularly conduct on-site reviews of day activity service programs, including of integrated community-based employment and day programs, to evaluate the services provided to individuals with IDD against the program standards described above. Findings reports, including plans of correction, will be published and follow-up reviews will be made to ensure compliance with program standards and the timely correction of deficiencies. The State will issue reports of any follow-up activities.

**Status and Assessment: Deferred** until February 28, 2017

#### **M. Data Collection and Reporting (Section XVI)**

**Benchmark 1 – Data to be Collected and Reported §XVI(1)&(2).** The State will report on a monthly basis from October 1, 2014 through October 1, 2015, and quarterly thereafter, the progress of implementation of this Consent Decree. Between the date of execution of this Consent Decree and October 1, 2014: (a) the Monitor and the State will jointly develop reporting protocols and processes for reporting; and (b) upon the request of the Monitor, the State will provide the Monitor with access to data and reports.

**Status:** The Monitor's Consent Decree Progress Report issued on August 17, 2015 noted that the State was not gathering, reporting, and analyzing data on Consent Decree compliance as required by this Section. During the past year, BHDDH-DDD, ORS and RIDE improved their collection, reporting and analysis of Consent Decree related data. Information on individuals receiving support from each of the three state agencies was integrated in a single database and an agreement was reached with the Sherlock Center at Rhode Island College to expand the scope of the existing Sherlock Supported Employment Survey of the IDD provider organizations to add Consent Decree data points and administer the survey on a quarterly rather than annual basis.

Additional steps were taken by the State in response to Court Orders resulting from findings by the U.S District Court that the State was out of compliance with several Consent Decree provisions. Court Orders issued by U.S, District Judge John J. McConnell on March 3, 2016 and May 18, 2016 required the State to take specific actions to remedy data gathering and reporting problems and fully document the services, supports, performance and outcomes of individuals who are members of the Consent Decree Target Populations. In response, the State filed two

progress status reports with the Court that included, for the first time, the individual data on the Consent Decree's target populations.<sup>11</sup>

The Sherlock Survey has been expanded in scope and frequency of administration to capture data on the majority of the items identified in Section XVI (a-r). A summary report on services provided during the first quarter, January 1, 2016 – March 30, 2016 was issued in July 2016. The Second Quarter Data Report covering the period April 1, 2016 through June 30, 2016 was issued on October 17, 2016.

Although required information is being collected and reported on the majority of the components of Section XVI, data on four subsections of this provision are not yet being gathered and reported quarterly as required by the Consent Decree. These include:

(m) The number of qualified and trained individuals who develop assessments and transition plans for youth with I/DD across Rhode Island, and who participate on employment teams;

(p) The number of qualified and trained individuals for each category of supported employment professionals, including job coaches, job developers, employment specialists, and benefits counselors providing services to the Target Population;

(q) The number of qualified and trained vocational counselors who assess and assist persons with IDD for Supported Employment Services across Rhode Island; and

(r) The number of in-reach, out-reach, and education programs and efforts offered to the Target Population(s).

**Assessment: Requirements Not Met.** Significant and substantive progress has been made in this area, as documented in the report assessing compliance with the Court Orders. Data on all but four of the measures listed under Section XIV are being gathered and reported as required. This provision will be met when the data is being collected and reported as required.

**Benchmark 2 Data Collection, Aggregation and Analysis §XVI(3) (a)-(b).** The State will: regularly collect, aggregate and analyze data; identify problems or barriers to placement in or retaining jobs in individual, integrated employment settings; and will recommend to the Directors of BHDDH, RIDE, and ORS remedial actions to resolve the problems or barriers. On a quarterly basis, the State will: (a) analyze service data, (b) identify service gaps and barriers, (c) develop and implement effective measures to overcome the problems and barriers identified; and (d) address obstacles to the implementation of the Consent Decree.

**Status:** The State developed and implemented an electronic database that aggregates and reports individual data on services and supports on all members of the four Target Populations. The database integrates Sherlock Survey data with that collected by RIDE, ORS and BHDDH. Quarterly reports are being issued by the State on the numbers of individuals in the Target Populations who are employed in integrated supported employment and the numbers of

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<sup>11</sup> State of Rhode Island Compliance Status Report on April 1, 2016 (ECF Document 16), and the Defendants Second Status Report filed on April 29, 2016 (ECF Document 26).

individuals are participating in integrated day activities. Additional service related information is being provided related to career development planning, benefits planning, wages earned, hours worked, and other items. Full implementation of the database is scheduled to be completed by the end of December 2016. The current “temporary” system will be replaced by an electronic system gathering data through a case management file format that will report information on each individual served by the State. DDD has received approval from the state’s Purchasing Department to obtain the new system for implementation during 2017. The State will ensure full access to needed information and reports by the Court Monitor, the Consent Decree Coordinator and the Department of Justice.

The State has provided a preliminary analysis of the placement data with the quarterly reports provided to the Monitor. The Monitor also has been provided with evidence that RIDE regularly gathers data on the measures that concern the delivery of educational services and supports to individuals in the Youth Exit and Youth Transition Populations. The data is analyzed and reported back to the school districts along with summary reports and recommendations regarding the steps that should be taken to improve performance and compliance with the Consent Decree requirements.

ORS reviews and analyzes the information that it gathers on the services and supports that it provides and uses this information in its quality improvement process. DDD staff review performance data that is gathered and reported in the Consent Decree Data Base and have shared with the Monitor copies of charts and graphs that use the data to document change over time and inform policy and programmatic decisions. ORS and DDD are using Consent Decree data to inform their internal decision making processes. However, no descriptive or summary reports, analyses or other evidence have been provided to the Monitor documenting the actions DDD and ORS are taking to analyze service data, identify service gaps and barriers, implement effective measures to overcome barriers that have been identified, and address obstacles to achieving the outcomes and milestones as required by the Consent Decree. Furthermore, evidence has not been presented to the Monitor regarding recommendations that have been made to the Directors of BHDDH-DDD, RIDE, and ORS with respect to remedial actions that should be taken to resolve identified problems or barriers.

**Assessment: Requirement Not Met.** The State has made significant progress in its efforts to create the capacity to gather and report on the services provided and the outcomes achieved by the individuals comprising each of the Consent Decree’s Target Populations. RIDE is largely in compliance with this provision. DDD and ORS need to strengthen the use, analysis and reporting of employment data to improve program operations, document progress, remove barriers and identify the need for changes in policy or practice.

#### **IV. Concluding Comments**

The State has made solid progress on meeting the requirements of the Consent Decree, particularly following the involvement of the Court beginning in January 2016. It is recommended that efforts over the next several months focus on the further development and expansion of key system building blocks that need to be in place to create and sustain the State’s ability to achieve full compliance with the Consent Decree. As noted above, key areas to be addressed include:

1. **Supported Employment Placements.** Focused effort needs to be placed on meeting supported employment placement deadlines for the Youth Exit Population and ensuring



supported employment placement goals are achieved for all members of the target populations.

2. Quality Improvement. DDD, ORS and RIDE need to develop and implement the statewide Quality Improvement Initiative consistent with the provisions of Consent Decree Section XV(1)-(5).
3. Person Centered Career Development Planning. DDD needs to expand and improve staff training and increase monitoring and oversight of career development planning activities carried out by provider agencies.
4. Personnel and Human Resources. DDD needs additional or reconfigured personnel resources to assure and improve service quality, provide appropriate system oversight, improve and ensure provider training.
5. Data and Information Management. The State needs to continue to develop the capacity to gather and analyze data across state agencies and systems and expand the use information to improve service quality, system performance and the achievement of individual outcomes.
6. Regulatory Change. DDD needs to perform an internal analysis of the extent to which current client to staff ratios and regulatory requirements facilitate or impede the ability of the State to fully support individuals with IDD in integrated community employment and day settings, as required by the Consent Decree.