



Position on Housing: Systems change through education, advocacy, and collaboration

The NHCDD advocates for fully inclusive, self-directed living whereby services and supports are defined and selected by the individual with intellectual and developmental disabilities (I/DD). We believe that a person's home is the foundation on which they build their lives and is where there is:

- Control over where and with whom one lives;
- Control over the services one receives; and
- Control over the routines of daily life

The NHCDD believes that segregation creates isolated, inauthentic living that is inappropriate and unnecessary, and consumes a disproportionate amount of scarce public resources. In addition, we believe that calling out segregation is an integral part of our work, but not all of it.

As we eliminate practices that are harmful, we need to simultaneously build best practices that promote health and well-being by addressing the major barriers to community living including:

- Lack of support for underfunded affordable housing programs;
- Medicaid not allowing funds to go towards rent or other typical housing-related costs;
- Being priced out of rental markets across New Hampshire (Social Security and Supplemental Security Income benefits are far lower than typical rents and are the main sources of income for many people with I/DD); and
- Crisis-level lack of well-trained Direct Support Professionals and Caregivers

These barriers make it difficult for people with I/DD to live in the community, placing people at high risk of unnecessary segregation and chronic homelessness.

The issue:

Securing housing for people with disabilities has been a long-term concern. Periodically, local attention and concerted awareness and efforts around this crisis have increased, as is currently the case.

The affordability and availability of New Hampshire housing creates significant barriers to people with disabilities.

Some background:

In reaching their Olmstead Case conclusion and integration mandate the Supreme Court, in 1999, relied on Congress' findings in enacting the Americans with Disabilities Act that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem."¹

According to federal Housing and Urban Development regulation, housing discrimination is illegal and federally funded housing must enable individuals with disabilities to have the same housing opportunities as everyone else.²

Such housing enables individuals with disabilities to live **independently** with appropriate supports, with individuals without disabilities and without restrictive rules that limit their activities or impede their ability to interact with individuals without disabilities.

Examples of integrated settings include:

- Home ownership;
- Typical apartments providing permanent housing with supports available as needed;
- Tenant-based rental assistance that enables individuals with disabilities to lease housing in integrated developments; and

¹ Olmstead, 527 U.S. at 600 (quoting 42 U.S.C. § 12101(a)(2) and citing 42 U.S.C. § 12101(a)(5)).

² See 24 C.F.R § 8.4(b)(1)(iv). See: <https://www.law.cornell.edu/cfr/text/24/8.4>

- Apartments for individuals with various disabilities **scattered throughout** public and multifamily housing developments.³

The U.S. Department of Justice (DOJ) describes the following additional characteristics of integrated settings:

- Those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities are located in mainstream society;
- Offer access to community activities and opportunities at times, frequencies and with persons of an individual's choosing;
- Afford individuals choice in their daily life activities; and
- Provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.⁴

By contrast, segregated settings are occupied exclusively or primarily by individuals with disabilities.

Segregated settings sometimes have qualities of an institutional nature, including, but not limited to:

- Regimentation in daily activities,
- Lack of privacy or autonomy,
- Policies limiting visitors,
- Limits on individuals' ability to engage freely in community activities and manage their own activities of daily living, or
- Daytime activities primarily with other individuals with disabilities.

³ United States Department of Housing and Urban Development, Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead, p. 7 (2013). Accessed April 14, 2022 at: <https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF>

⁴ U.S. Department of Justice (2020). Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C. Accessed 4.14.22 at: https://www.ada.gov/olmstead/q&a_olmstead.htm

These kinds of characteristics and outcomes associated with segregated settings represent the potential risks of “planned” or “intentional communities” for people with developmental disabilities. These planned communities, by their congregate nature, can fall short of providing “individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible,” and assuring people “receive services in the greater community, like individuals without disabilities,” consistent with DOJ guidance.

A way forward:

When evaluating the characteristics of housing it is useful to consider John O’Brien’s Five Accomplishments for a Valued Life.⁵

These have been used for the past four decades to determine whether service paradigms support the rights of people with disabilities.

- **Community Presence:** The right to take part in community life and to live and spend leisure time with other members of the community.
- **Relationships:** The right to experience valued relationships with non-disabled people, with facilitation when necessary.
- **Choice:** The right to make informed choices, both large and small, in one’s life, including where to live and with whom to live.
- **Competence:** The right to learn new skills and participate in meaningful activities with whatever assistance is required.
- **Respect:** The right to be valued and not treated as a second-class citizen.

Our position on housing:

It is the position of the New Hampshire Council on Developmental Disabilities that best practices should be executed to accomplish integrated housing outcomes for people with developmental disabilities, which assures supports necessary for

⁵ <https://optionsforsupportedliving.org/blog/john-obriens-five-service-accomplishments>

safety and a good life, within typical community housing settings and control over what supports are provided and who provides them.⁶

The crisis in housing for people with developmental disabilities demands action and public housing authorities and private community development entities must work together with disability advocates to increase accessible, affordable, stable, and supportive housing.

Finally, the creation of affordable housing should not go forward with a reliance on models of housing which, by their nature, are inconsistent with the rights of people with disabilities and the promise of the Americans with Disabilities Act of 1990, its Integration Mandate and the Supreme Court's Olmstead Ruling of 1999.

People with disabilities should not have to wait longer to have a home from which they build a life of inclusion and engagement in their communities.

⁶ Crane, D., Ne'eman, A. (2014). Integrated Housing for People with Intellectual and Developmental Disabilities:
<https://autisticadvocacy.org/wp-content/uploads/2014/09/Integrated-Housing-Fact-Sheet.pdf>