

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
v.)	C.A. No. 14-175-JJM-PAS
)	
STATE OF RHODE ISLAND,)	
Defendant.)	
_____)	

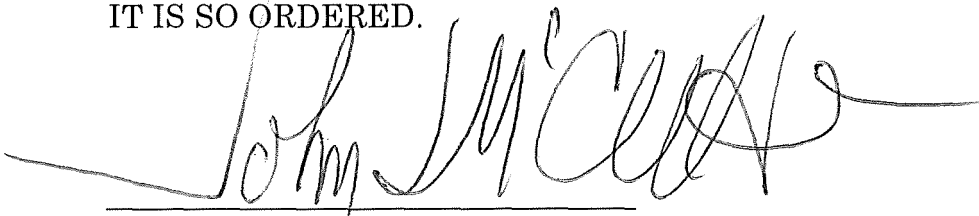
ORDER

Upon recommendation of the Court Monitor and in response to the United States' notice pursuant to Section XIX(2)(b) timely filed on September 28, 2023 (ECF No. 195), and after consultation with all parties, the Court hereby

ORDERS, ADJUDGES, AND DECREES

The attached Addendum is incorporated in and made a part of the Consent Decree dated April 9, 2014 (ECF No. 5).

IT IS SO ORDERED.



John J. McConnell, Jr.
Chief Judge
United States District Court

October 2, 2023

**Addendum to the Rhode Island Consent Decree (USA v RI)
September 28, 2023**

Preface

The intent of this Addendum is to ensure (1) that all actions required by the Consent Decree and subsequent court orders are fully implemented by July, 2024, (2) that these actions continue through June, 2026, (3) that these actions result in positive changes in the lives of the individuals who are part of the Consent Decree target populations and (4) that these actions increase the number of individuals who are employed and who participate in community activities of their choosing in integrated settings. This addendum does not extend or revise the Consent Decree. Attached is the Monitor's commentary on the reasons for and value of continuing oversight.

(I) The Court finds that the State has substantially complied with the following sections of the Consent Decree and these sections are considered to be complete.

1. Section IV Outcomes (1-3,5-6) – All Youth Exit and Youth in Transition have participated in person-centered planning and have received career development services and supports.
2. Section IV Outcomes (4) - New admissions to sheltered workshops have been terminated.
3. Section IV Outcomes (7) – Policies exist that presume that that individuals with significant disabilities can work in integrated settings; adequate training and certification has been provided for SIS interviewers.
4. Section V Supported Employment Services (A-C, E-H) – Although current individual jobs meet the criteria defined in these sections, the State needs to ensure that supported employment services are sufficiently available to all members of the Consent Decree.
5. Section V Supported Employment Services (F) – Policies exist documenting that all individuals covered by the Consent Decree should be presumed to be capable of employment.
6. Section V Supported Employment Services (L-M) – Variance process is in effect and has been used by approximately 112 individuals.
7. Section VI Integrated Day Services (A) – Although community services in integrated settings are available to most individuals and more than 80% of adults participate in community activities in integrated settings, the State needs to ensure that integrated community services are sufficiently available to all members of the Consent Decree.
8. Section VII Career Development Planning (1-7) – All transition-aged youth and all adults have Career Development Plans and/or career goals embedded into Individual Service Plans (ISP). The State has revised the plan format to be more targeted and focused on job development before school exit. The Court will continue to monitor implementation of the revised transition career development plans and the specificity of adult plans.
9. Section VIII Transition Planning (1-3, 5-10) – Transition services that are in compliance with the requirements of the Consent Decree are in place in every school district. The Court will continue to monitor the impact of the new initiatives being implemented in schools.
10. Section IX Training - A menu of trainings and professional development activities currently exist and have been approved by the Monitor.

11. Section X (3) Outreach, Education and Support – The Employment First Task Force was established and existed for seven years. The Task Force was dissolved.
12. Section XI (3) Capacity – Pre-qualification standards for employment staff have been established.
13. Section XI (4, 6-8)) Capacity – Policies, procedures and partnerships to increase capacity have been established.
14. Section XI (9) Capacity – The Conversion Institute was established and has provided data, training and technical assistance.
15. Section XI (10) Capacity – The Conversion Trust Fund was established and allocated funds distributed to segregated day programs.
16. Section XI (11) Capacity – The State has addressed the administrative barriers identified by the Monitor.
17. Section XII (All Provisions) State and Other Actions – The State has developed contracts with several technical assistance providers, both public and private.
18. Section XIII (All Provisions) Interagency Collaboration – Several interagency agreements have been developed. There is a high level of interagency collaboration among those state agencies directly involved with Consent Decree activities; specifically, the Department of Behavioral Health Developmental Disabilities and Hospitals (BHDDH), the Office of Rehabilitation Services, the Department of Education, the Department of Labor and Training and others.
19. Section XIV (All Provisions) Funding – The FY2024 budget for the Developmental Disabilities as recommended by the Governor and enacted by the Legislature satisfies the intent of the Consent Decree. Continued adequate funding with appropriate increases will be assessed and monitored for the duration of this Addendum.

(II) The Court orders that the following actions will be complete by June 30, 2024.

The focus of 2023-2024 is on (a) full implementation of the plans submitted in the State's June 26, 2023 court filing, (b) the development and promotion of effective models for providing service and support and (c) assessing progress towards the benchmarks of the Consent Decree.

1. The State will **fully implement all plans and activities** included in the June 26, 2023 court filing.
2. The new rates and rate structure will be fully implemented (*Consent Decree, Section XIV*).
3. All adults will have experienced the new three-step assessment process (*December, 2022 Court Order*).
4. All adults will have an individual budget based on the three-step process (*Consent Decree, Section XIV; December, 2022 Court Order*).
5. All adults will have an independent facilitator who will (a) provide information about employment and community activity, (b) facilitate the development of a person-centered plan, (c) explain the resources and opportunities available through the new rate structure, (d) assist the individual to use their individual budget to access employment and community services (*December, 2022 Court Order*).

6. The majority of adults in the target populations will be using the add-on employment funds to obtain or maintain employment in integrated settings (*Consent Decree, Sections IV, V, XIV; December, 2022 Court Order*).
7. Supported Employment Services will be provided at a sufficient quantity so that all members of the Consent Decree populations should have access to jobs that meet the criteria defined (*Consent Decree, Section V, A-C*).
8. The number of adults currently employed in integrated settings will increase. Specifically, by June 30, 2024 125 individuals seeking employment will be employed in new individual jobs in integrated settings (*Consent Decree, Section IV, 9; V, D*).¹ These numbers do not include transition-aged youth who gain employment prior to school exit.
9. By June 30, 2024 the average number of weekly hours of employment (using the Sherlock Survey as the metric) will increase to 12 (*Consent Decree, Section V, K*).
10. All adults covered by the Consent Decree will participate in community activities in integrated settings such that community activities and services will meet the criteria defined in the Consent Decree. Requests to be exempt from community participation must be documented by the State and approved by the Monitor. (*Consent Decree VI, B 1-10*)
11. The revised Career Development Plan for transition youth will be implemented in all LEAs and with all transition-aged students (*Consent Decree Section VIII, December, 2022 Court Order*).
12. The State will document outreach to transition youth with IDD to facilitate application for services as early as possible. By age 20 80% of transition youth with IDD will have applied for adult developmental disability services. All who are eligible will be receiving DD funding and services sufficient to allow them a meaningful choice of integrated community activities and integrated employment (*Consent Decree Section VIII; December, 2022 Court Order*).
13. The State will document outreach to transition youth with IDD to apply for services as early as possible. By age 20 80% of transition youth with IDD will be connected to an ORS or a BHDDH vendor and will be involved in specific job development (*Consent Decree Section VIII; December, 2022 Court Order*).
14. The number of transition-aged youth who participate in CTE will increase (*Consent Decree Section VIII, December, 2022 Court Order*).
15. An individual contact person for all transition youth and their families will be specified (*Consent Decree Section VIII, December, 2022 Court Order*).
16. A network of family-to-family support and mentorship will be developed and fully implemented (*Consent Decree Section VIII, December, 2022 Court Order*).
17. As specified in the Monitor's July, 2023 report, the organizational development, technical assistance to provider organizations and trainings for targeted audiences on specific topics will continue (*Consent Decree, Section IX*).
18. The State will develop and provide competency-based and value-based training to all providers who support individuals who self-direct their own employment and/or community services (*Consent Decree, Section IX, 2-3*).

¹ The State has documented that there approximately 1000 individuals seeking employment. It is realistic to assume that 50% of those adults will secure employment by June 30, 2026. That number is spread over three years – 125 new jobs by June 30, 2024; 175 additional new jobs by June 30, 2025; 200 additional new jobs by June 30, 2026.

19. Plans to outreach to individuals who self-direct and individuals in segregated settings will be fully implemented (*Consent Decree, Section X*). Adults in segregated settings will use employment resources to obtain integrated employment in addition to their current day activities.
20. The State's Communication Plan, as filed with the Court, will be fully implemented (*Consent Decree, Section X*).
21. The State will fully implement the activities of the statewide workforce initiative (*Consent Decree, Section XI, 1-2; May, 2022 Court Order; December, 2022 Court Order*).
22. Direct Support Staff vacancies will decrease (*Consent Decree, Section XI; May, 2022 Court Order; December, 2022 Court Order*).
23. The State will continue to provide technical assistance and oversight to agencies re: use of evidence-based employment practices, staffing capacity, business models that align with the goals of the Consent Decree (*Consent Decree, Section XI, 5*).
24. The State will develop a contract(s) with organizations that have credibility and capacity to assist providers and others to effectively use the new rates and rate structures to develop program models that promote the goals of the Consent Decree (*Consent Decree, Section XII*).
25. By January 1, 2024 the State will develop a methodology for annual assessment of life outcomes for each/every individual member of the Consent Decree population (*December, 2022 Court Order*).
26. Although the State has developed a Quality Improvement System, these activities should continue throughout the duration of this Addendum with specific focus on translation of the new rates and services into program models that increase employment and community activity in integrated settings (*Consent Decree, Section XV*).
27. The state will provide data and reporting as detailed in (III) below (*Consent Decree, Section XVI*).
28. By January 1, 2024 the State (in collaboration with the Monitor, the Department of Justice, others) will develop a comprehensive methodology for data collection and reporting (*Consent Decree, Section XVI*).

(III) The Court orders that the following data will be used to assess compliance.

1. By November 1, 2023 the State will provide a list of the original Consent Decree members and their current status.
2. The target population for employment will include all adult members of the original target population minus (a) individuals who have deceased, (b) individuals who have voluntarily left services, (c) individuals with variances, (d) individuals who were employed prior to the Consent Decree, and (e) individuals who are retired. Retired individuals are defined as individuals aged 62 or older whose preference for retirement is documented in their ISP. Individuals who have voluntarily left services and/or requests to be retired (i.e., not included in the target population for employment) should be documented by the State and approved by the Monitor. Self-employment will be considered to be employment in integrated settings. Provider paid individual employment will be reviewed; jobs that meet the criteria defined in Consent Decree

Section V will be considered to be employment in integrated settings. All other individuals will be presumed eligible for employment or will complete the variance process. Any alternatives to the variance process for specific individuals must be approved by the Monitor.²

3. The primary measure for assessing the employment benchmark will be currently employed. The State will report this number quarterly using the sources and the methodology currently in use. The Sherlock Survey will be administered semi-annually as a point-in-time verification of the State's quarterly report.
4. The Court will also consider the cumulative number of supported employment placements using the sources and methodology currently in use. The State will continue to report quarterly (a) an unduplicated count of adults in the target population for employment and (b) an unduplicated count of adults who were ever employed during the term of the Consent Decree.
5. Participation in community activities in integrated settings will be assessed through two sources – (a) the semi-annual Sherlock Survey will address for each of the three target populations (i) the number and percent of individuals participating in community non work activities, (ii) the average hours spent in the community, (iii) the settings in which those activities occur, (iv) whether the community activities are targeted to individuals with IDD or targeted to the broader community, (v) the number and percent participating in selected categories of activity and the average amount of time spent in those activities and (vi) with whom the individual participates in those activities; (b) the Monitor will interview a sample of each target population and of individuals who self-direct to assess both quantitative and qualitative factors (*see Appendix B – Monitoring Plan*).
6. Using the Staff Stability Survey, the Monitor has established two years of baseline workforce data – number of direct support staff, average starting hourly wage, average hourly wage, number of front-line supervisors, number of turnovers and turnover rate, number of vacancies and vacancy rate. The University of Minnesota (the vendor for the Statewide Workforce Initiative) will assume responsibility for collecting and reporting workforce data beginning October, 2023.
7. The Governor's budget request.
8. Beginning in June, 2024 the Rhode Island Department of Education will report on (a) the number of transition youth exiting school with a job and (b) the number of transition youth exiting school with a minimum of three community connections.
9. A list of all outreach, technical assistance and training activities – (a) date of activity, (b) topic, (c) intended audience, (d) number participating, (e) impact. Activities should be sorted by category – (a) employer outreach activities, (b) activities that promote employment, (c) activities that promote community activity in integrated settings, (d) workforce development, (e) technical assistance re: rates or services.
10. Note – there is need for a comprehensive data plan to assess future longitudinal progress and to identify obstacles or barriers. As indicated in (III) above, by January 1, 2024 the

² Based on the defined target for employment, by November 1, 2023 the State will provide the Court with an unduplicated count of the Consent Decree adults who are in the target population for employment. Data sources should be specified and documented.

State (in collaboration with the Monitor, the Department of Justice, others) will develop a comprehensive methodology for data collection and reporting.

11. Note – Appendix A outlines the Monitoring Plan for 2023-2024.

(IV) The jurisdiction of the Court will continue beyond the termination date of June 30, 2024 to allow for the following actions and benchmarks to be monitored through June 30, 2026 to ensure that the systems already in place that have been found to be in substantial compliance with the intent and goals of the Consent Decree continue and are positively impacting the lives of the individuals who are members of the Consent Decree population.

This section is predicated on the assumption that all actions in (II) above have been fully implemented. The focus of 2024-2026 will be on (a) continuation of the plans, policies and funding models being implemented in 2023-2024 and (b) assessing the impact of implementation on the lives of individuals with IDD, particularly in the domains of employment and community participation in integrated settings.

1. Funding will be determined annually at a rate consistent with change of the IDD population and with the actual cost of providing services and supports. Said changes will be reflected in the Governor's budget request (*Consent Decree, Section XIV*).
2. The number of adults currently employed will increase annually (*Consent Decree, Section IV, 9; V, D*). Specifically, by June 30, 2025 an additional 175 adults will be employed in new individual jobs in integrated settings. By June 30, 2026 an additional 200 adults will be employed in new individual jobs in integrated settings.³ These numbers do not include transition-aged youth who gain employment prior to school exit.
3. By June 30, 2026 at least 60% of the adults in the target population for employment will have been employed during the term of the Consent Decree.⁴
4. The average number of weekly hours of employment will increase annually (*Consent Decree, Section V, K*). Using the Sherlock Survey as the measure, the average number of weekly hours of employment will increase to 14 by June, 2025 and 16 by June, 2026.
5. All adults will participate in community activities in integrated settings; community activities and services will meet the criteria defined in the Consent Decree. Requests to be exempt from community participation will be documented by the State and approved by the Monitor (*Consent Decree VI, B 1-10*).
6. The percentage of transition-aged youth exiting school with employment in in integrated setting will increase annually (*Consent Decree Section VIII; December, 2022 Court Order*).
7. The percentage of transition-aged youth exiting school with at least three community connections will increase annually (*Consent Decree Section VIII; December, 2022 Court Order*).

³ See Footnote #1.

⁴ The benchmark numbers in Section IV of the Consent Decree were 100% of the youth exit population, 700 members of the Sheltered Workshop population and 950 members of the Day Activities population. The percentage will be calculated based on the target population defined in section III of this addendum and referenced in footnote #2.

8. The number of transition-aged youth participating in CTE will increase annually (*Consent Decree Section VIII; December, 2022 Court Order*).
9. Workforce Capacity will continue to increase (*Consent Decree, Section XI*)

V. Review of Addendum

1. Dr. A. Anthony Antosh will continue as court appointed Monitor for the duration of the Addendum.
2. Individuals and families (as sampled by the Monitor) will be interviewed to evaluate positive changes in their life, satisfaction with services and continuing compliance.
3. Monitor will also continue to visit high schools and adult provider organizations.
4. All parties will jointly meet with the Monitor in December and May of each of the three years (2023-2024, 2024-2025, 2025-2026) to assess compliance with monitoring goals.
5. If compliance is insufficient, all parties will jointly meet with Judge McConnell to determine additional actions or consequences.

Appendix A Monitoring Plan for 2023-2024

Given that this entire Addendum is built on the assumption that all components of the necessary infrastructure will be fully implemented by July 1, 2024, targeted monitoring is important to evaluating implementation and impact. Monitoring during 2023-2024 will focus on the following items.

- The Consent Decree “targets for employment” are defined in Section (iii) of the Addendum.
- The number and percent of individuals currently employed will be the primary metric for measuring substantial compliance with the Consent Decree benchmarks. The State will also report on cumulative supported employment placements to document historical effort.
- Participation in community activities in integrated settings will be assessed using the Sherlock Survey and Monitor’s interviews, as described in Section (iii) of the Addendum.
- Workforce trends will be reported by the University of Minnesota in their role as the State’s vendor for the State’s workforce initiative.
- The Monitor will sample (a) 15% of all transition-aged youth (at least one from each district) who are 20+ and (b) 15% of all youth who have exited school in the past year. In addition to reviewing Career Development plans, the Monitor will interview selected youth. Interview questions will focus on (1) process questions (receipt of information needed to make decisions, eligibility and support from BHDDH, connection to an ORS vendor, etc.) and (2) outcome questions (employment and community connections and participation). Interviews will include both quantitative and qualitative information.
- Every month between October, 2023 and July, 2024 the Monitor will sample 10-15% of adults who have experienced the new assessment process and have developed/revised their individual service plans (ISP) during the prior month. Sample will be sorted by the three Consent Decree populations and by individuals who self-direct. ISPs (with embedded career development goals) will be reviewed. Interviews will include (1) questions about the new assessment process (implementation and participation in the components, accuracy with which the process identifies their needs); (2) questions about independent facilitation (time spent getting to know you, community and relationship mapping, information giving, explanation of resources, etc.); and (3) outcome questions (employment, community participation in integrated settings, accomplishments, barriers, satisfaction, etc.). Interviews will include both quantitative and qualitative information.
- All products and events that are described in the State’s communication plan will be reviewed to assess impact.
- All technical assistance and training activities will be assessed to determine if the targets specified in the Monitor’s July, 2023 Report are being met.
- Technology acquisition (per the court-ordered technology fund) and impact of technology will be reviewed.