



COMMONWEALTH of VIRGINIA

Office of the Governor

Robert F. McDonnell
Governor

January 26, 2012

Members of the General Assembly,

In 2008, the Department of Justice (DOJ) began an investigation pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA) at the Central Virginia Training Center in Lynchburg, which serves individuals with intellectual disabilities. In 2010, that investigation was expanded to examine Virginia's compliance with the Americans with Disabilities Act (ADA) and the U.S. Supreme Court *Olmstead* ruling. This expansion covered Virginia's entire system of services for citizens with intellectual and developmental disabilities, including all five state training centers and community services. The *Olmstead* decision requires that individuals be served in the most integrated settings possible. DOJ issued a [findings letter](#) to the Governor in February 2011 that concluded Virginia is not providing services in the most integrated and appropriate setting, not developing a sufficient quantity community services and that Virginia has a flawed discharge process at training centers.

Since receiving the findings letter, Virginia has been negotiating with DOJ to reach a settlement agreement in an effort to not subject the Commonwealth to an extremely costly and lengthy court battle. Our overarching goals through this process have been to ensure that the agreement 1) results in the best possible outcomes for Virginians with intellectual and developmental disabilities and 2) is fiscally responsible. After nearly a year of negotiations, the Administration has signed a Settlement Agreement on behalf of the Commonwealth of Virginia, that we believe is good for the consumers and good for the tax payers.

As many of you know, the Commonwealth has been moving towards a community-based system of care for many years. In fact, when I was Delegate in 2000, I patroned legislation to help set the policy and established the funding mechanism to ensure Virginia was providing the most compassionate, least-restrictive, community-based care for these individuals to ensure their highest possible quality of life. While we have made progress, and would have continued to make progress without this Agreement, this settlement will accelerate those efforts in a fiscally responsible and strategic manner. I firmly believe the Commonwealth was on course to build a community based system of care without the intervention of the federal government. Rather than permitting Virginia to initiate this transition through our own timetable, the Federal Government has intervened and required Virginia to accelerate our efforts in a manner that may cause some additional hardship on certain affected areas of the Commonwealth in the short term.

The four key points in the agreement include: 1) Serving Individuals with Developmental Disabilities in the Most Integrated Setting, 2) Transitions from Training Centers, (3) Supporting Housing and Employment Options for Individuals with Developmental Disabilities and 4) Quality and Risk Management System. It calls for 4,170 new waiver slots over ten years that will help transition individuals currently living in training centers to community services and guarantees continued growth in the number of community waiver slots for those on the 5,932-person waiting list for such services. There are currently 8,621 people who have an Intellectual Disability (ID) waiver slot and are being served in the community, some with needs as profound as some training center residents. There will be expanded accountability and oversight in the community through the implementation of a quality and risk management system and a bolstering of licensing and case management requirements.

Virginia’s longstanding policy of transitioning individuals from an institutional model of care to a community-based system that meets the needs of the population served by the training centers will be fulfilled. Over time the population of the training centers has declined from a capacity of 6,000 residents to approximately 1,000 residents today. The continued operation of, residential services in current levels, in five centers is unsustainable due to the significant and ongoing decline in population. While the demand for community services is growing (as evidenced by the waiver waiting list), only about 13 families per year statewide are choosing for their loved ones to live long-term in a training center. As a result of this as well as discharges/and other natural factors, the overall number of residents in the training center has decreased 42 percent since 2000 and currently stands at 1,018 (as of 1/5/2012). Our latest projections show there will be fewer than 1,000 people in training centers by March 31, 2012, with the number of residents dropping to less than 600 by 2015. Virginia is required to provide a plan to the Chairmen of the House of Delegates Appropriations and Senate Finance Committees within one year of the Agreement to gradually cease residential operations at four of Virginia’s five training centers by the close of State Fiscal Year 2021.

As such, a Trust Fund plan has been developed in anticipation of the agreement which establishes plans for the closure of four of Virginia’s five training centers. The timeframe for the closure of the four training centers is as follows:

Fiscal Year	Training Center
2014	Southside Virginia Training Center (SVTC) Closes
2015	Northern Virginia Training Center (NVTC) Closes
2016	
2017	
2018	Southwestern Virginia Training Center (SWVTC) Closes
2019	
2020	Central Virginia Training Center (CVTC) Closes

*Southeastern Virginia Training Center (SEVTC) in Chesapeake, VA will remain open with a maximum capacity of 75 beds.

The health, safety, and well-being of individuals leaving the training centers are paramount. Because it takes time to ensure that individuals are moved safely from training centers to community homes that are appropriate for their needs, there will not be immediate closures of training centers. In the meantime, we will be working very closely with the individuals in training centers and their families to help them choose the best community setting to meet their wants and needs, and we will walk through the process with them as they adjust to their new community homes. We will have teams of professionals available at the training centers equipped with current information to answer their questions and address concerns. Over the next decade, the Commonwealth will do everything in its power to ensure that residents whose medical condition warrants or whose informed desire is to remain at a training center will have a comparable placement in the community or in the remaining training center.

Additionally, training center staff are a high priority for us. We will provide information about the changes at the training centers, answering questions, pointing to programs about other state employment, providing information about retirement benefits or WTA for those who are eligible. We hope in the coming years current training center staff will transition to work in other facilities, community services boards, community providers, or even become providers themselves as the current residents move to those community sources of care.

Last Session, together, we added \$30M to the Mental Health Trust Fund to facilitate the transition of individuals from training centers to the community. An additional \$30M has been recommended in the new biennial budget that is before the General Assembly to further these efforts. These resources, along with others, have provided opportunities for Virginia to begin to tackle the issues outlined in DOJ's findings letter. The actions we are taking are consistent with bipartisan agreement among recent Governors, and legislators to build community capacity for Virginians with disabilities. It is important to note that the Commonwealth's ability to fund the transition to a community based system of care is dependent on the federal government fulfilling its financial commitment through the Medicaid program. If the federal government cuts Virginia's Medicaid rates, it will undermine the Commonwealth's ability to comply with the terms of the Agreement.

Over the last decade, Virginia has worked to transition to a community based system of care. The settlement agreement reflects Virginia's long-term goals and priorities for some of the most vulnerable citizens in the Commonwealth. The result of the actions we have already taken and will be taking as a result of the settlement agreement will enable more individuals with intellectual and developmental disabilities to have the opportunity to thrive, living a life that is more integrated into the local community. Although we were forced into a process and timeline that we did not invite, we affirm our long standing commitment for a stronger, more integrated

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system of care and look forward to working together with you for a brighter future for Virginians with disabilities and their families.

Sincerely,

A handwritten signature in black ink, reading "Robert F. McDonnell". The signature is written in a cursive style with a large, stylized initial "R".

Robert F. McDonnell

RFM/kfs