



THE ARC OF ILLINOIS: PROTECTING ACCESS TO COMMUNITY-BASED LIVING

Housekeeping

- This presentation will be recorded. The slides and recording will be available on our Advocacy page within 2 business days. <https://www.thearcofil.org/about-us/programs/advocacy/>
- Closed captioning is available through Zoom.
- Participants are muted, so please put comments in the **Chat box** and questions in the **Q & A box**.
- Please be respectful of our speakers and moderators.



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Your membership helps us provide these webinars at no cost!

A photograph of a diverse group of people sitting together, some clapping, with a semi-transparent overlay containing text and logos.

 **AMPLIFYING** Impact.

Individual, Family, and Organizational Memberships

There's Strength in Numbers

Together we are more **powerful**. Together we have more **resources**. Together our individual actions create **momentum** for change.

Since 1950, The Arc of Illinois has been committed to empowering persons with disabilities to have full participation in community life through informed choices and they're able to do so with dignity.

Membership ensures crucial programs and services remain available to the people who need them and that disability no longer means lack of opportunity. Let's achieve, **together**.

<https://www.thearcofil.org/join-us/>

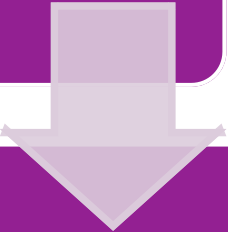


Take our poll!

HOW MUCH DO
YOU KNOW ABOUT
OLMSTEAD?

A Brief History of Disability Laws and Cases

Rehabilitation
Act of 1973,
Section 504



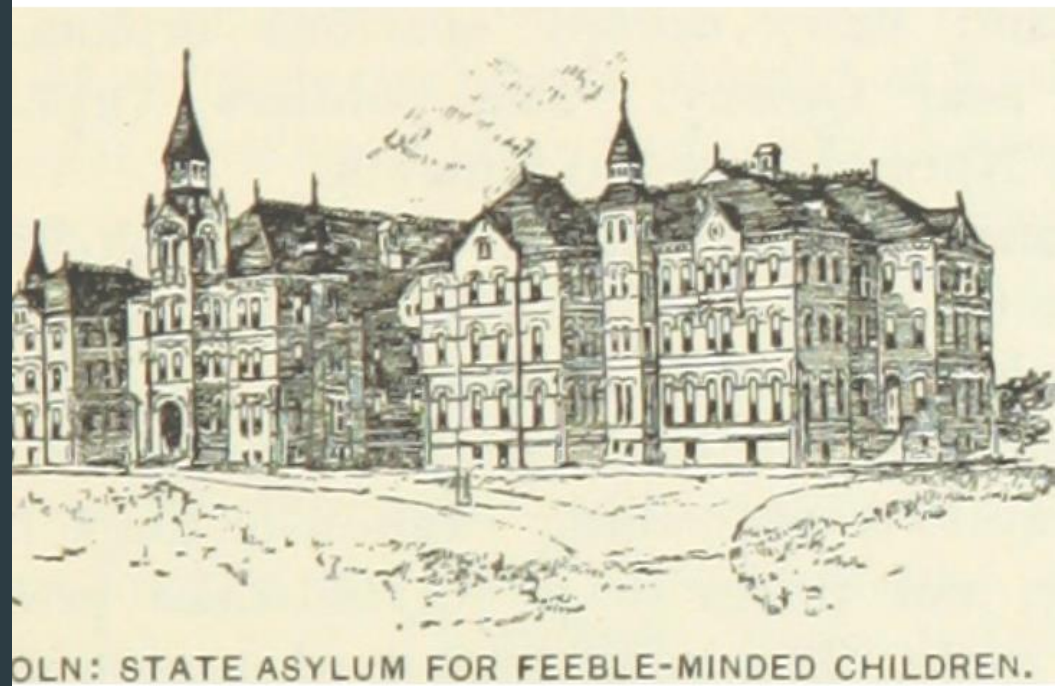
Americans with
Disabilities Act



Olmstead
Supreme Court
Decision

BEFORE SECTION 504 AND *OLMSTEAD*, MOST PEOPLE WITH DISABILITIES LIVED IN INSTITUTIONS

Top: Illinois' main institution, which closed in 2002
Bottom: A famous picture from the Willowbrook State School
in NY



Section 504



In 1973, The Rehabilitation Act was passed by Congress and signed by President Nixon

This Act included Section 504, which has the following language:

- *No otherwise qualified handicapped individual in the United States...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*

Any public program, including employment, education, and social services, cannot discriminate against people with disabilities

Banned discrimination based on disability from all programs/buildings receiving federal funding

All Laws Need Regulations!

A law cannot be enforced without regulations that describe how it should work

For many years, there were not any regulations approved for Section 504, which meant it could not be enforced

The most recent version of these regulations is part of what the Department of Justice now thinks is problematic

The 504 Sit-in finally convinced government officials to sign the regulations into effect in 1977, meaning Section 504 could be enforced

Regulations included things like defining:

- Who was a person with a disability?
- What programs/buildings did this apply to?
- What counts as discrimination?

Americans with Disabilities Act (ADA)



After numerous court challenges and the Capitol Crawl, the Americans with Disabilities Act was passed in 1990

- Expanded anti-discrimination to all employers
- Government programs, services, and activities could not discriminate
- Accessibility of private facilities
- More detailed language, as well as rules and regulations

Community Integration in the ADA

- Forward to the ADA specifically calls out segregation and institutionalization
- Integration Regulation 28 CFR § 35.130(d)
 - “A public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”



Two women, Lois Curtis and Elaine Wilson, with both developmental disabilities and mental health issues, were stuck in psychiatric facilities and wanted to leave

Olmstead vs. L.C. Supreme Court Case (1999)

Question: Is keeping someone in an institution discrimination under the Americans with Disabilities Act?

Answer: The court decided that discrimination had occurred, and that Lois and Elaine were entitled to live in community settings

Olmstead's Three Requirements

01

Community placement
is appropriate
(individual assessment)

02

Community placement
is not opposed by the
affected individual

03

The placement can be
reasonably
accommodated, taking
into account the
resources available to
the State and the
needs of others

What *Olmstead* is and is Not

Olmstead is a Supreme Court Decision

- It is not an Act or a Law

It has Binding Authority

- State programs and laws must comply with the nature of the decision
- Lower courts must follow its precedent

Additional court cases have made the implications clear

- Applies to all disabilities
- Has been generally found by lower courts to be a mandate to states to move people from institutional settings to community settings

Settled *Olmstead* Cases in Illinois

Ligas v. Hamos: Adults with developmental disabilities living in private institutions wanted to move to the community (2011)

Williams v. Rauner: Adults with Serious Mental Illness residing in Nursing Facilities or Institutes of Mental Disease wanted to move to the community (2010)

Colbert v. Rauner: Individuals with disabilities in nursing homes wanted to live in the community (2011)

The Final Rule That Started It All

The Biden Administration created a set of new rules and regulations to enhance Section 504 (2024)

This included an explicit Integration Mandate § 84.76
Integration

- Applies to those receiving federal funds
- Prohibits discrimination
- Prohibits forced segregated settings:
 - Congregate settings that are populated exclusively or primarily with individuals with disabilities and may be characterized by regimentation in daily activities; lack of privacy or autonomy; or policies or practices limiting visitors or limiting individuals' ability to engage freely in community activities and to manage their own activities of daily living.

The Final Rule That Started It All

- ***Specific prohibitions.*** The general prohibition in...this section includes but is not limited to the following specific prohibitions, to the extent that such action results in unnecessary segregation, or serious risk of such segregation, of persons with disabilities.
 1. Establishing or applying policies or practices that limit or condition individuals with disabilities' access to the most integrated setting appropriate to their needs
 2. Providing greater benefits or benefits under more favorable terms in segregated settings than in integrated settings
 3. Establishing or applying more restrictive rules and requirements for qualified individuals with disabilities in integrated settings than for individuals with disabilities in segregated settings
 4. Failure to provide community-based services that results in institutionalization or serious risk of institutionalization...includ(ing)...planning, service system design, funding, or service implementation practices that result in institutionalization or serious risk of institutionalization. **Qualified individuals with disabilities need not wait until the harm of institutionalization or segregation occurs to assert their right to avoid unnecessary segregation.**
- ***Fundamental alteration.*** A recipient may establish a defense to the application of this section if it can demonstrate that a requested modification would fundamentally alter the nature of its program or activity.

Then Some States Complained...



Texas v. Becerra

Filed to prevent new Section 504 regulations from being enacted

17 states in lawsuit plus separate federal notice from Health and Human Services

Big complaint: the potential inclusion of gender dysphoria as a disability

But also challenged the constitutionality of Section 504 entirely

Paused case 4/2025



Texas v. Kennedy

Only tries to overturn the Final Rule from 2024, including the Integration Mandate

Only 6 states are left – all others have dropped out

Still pending

Department of Justice Slip Opinion Memo 6/18/26

What is this?

The Executive Branch asked the Department of Justice to answer some questions for them

This is the Legal Opinion of a lawyer at the Department of Justice, Lanora C. Pettit

What questions did the Executive Branch ask?

Whether *Olmstead* decided that section 504 and the ADA impose a community integration mandate

Whether Congress constitutionally could impose such a mandate

Whether by passing Section 504 and the ADA, Congress imposed such a mandate

What Does
the Memo
Say?

(Slip Opinion)

Application of the Rehabilitation Act and Americans with Disabilities Act to State Institutionalization of Patients with Severe Mental Illness or Disabilities

In prohibiting discrimination on the basis of disability, neither section 504 of the Rehabilitation Act nor Title II of the Americans with Disabilities Act (“ADA”) imposed an integration mandate on states in their treatment of mentally disabled individuals. Nor does either statute authorize the responsible Executive Branch agencies to impose such a mandate.

A statutory mandate that states treat mentally disabled patients in maximally integrated settings would raise serious questions regarding the scope of Congress’s power under the Fourteenth Amendment, the Interstate Commerce Clause, and the Spending Clause.

In *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999), the Supreme Court did not hold that section 504 of the Rehabilitation Act or Title II of the ADA require states to treat mentally disabled patients in the most integrated setting appropriate to their needs.

June 18, 2026

In Plain English, the DOJ Memo Says:

Neither Section 504 nor the ADA ever mandated community integration

Integration mandates may not be constitutional (most of the memo is devoted to this topic)

The *Olmstead* decision did not require states to serve people in the community

- *Olmstead* does not specify when institutionalization IS warranted – states can institutionalize with adequate justification
- Institutionalization can be discriminatory but is not always discriminatory
- Prohibiting discrimination does not mean states need to offer Home and Community Based Services

What Does a Memo Like This Mean?

It does not change any laws – only Congress can do that

- Section 504 is still law
- The ADA is still law

It does not change any rules – there is a regulatory process for this

- Regulations for Section 504, including the Integration Mandate, still stand

It does not alter the Binding Precedent set by the *Olmstead* Supreme Court Decision

It is only an OPINION; however, these are typically considered binding internally for the Executive Branch

Does This Memo Line Up With What Courts Have Said?



NO!



Even the memo itself states their position is out of line with interpretations of Section 504, the ADA, and *Olmstead*



Goes against nearly three decades of case law



Goes against the decisions of the DOJ's own cases, as recently as six months ago

Does This Memo Only Apply to People with Mental Illness?

No! The title makes clear that this applies to: “Patients with Severe Mental Illness or Disabilities”

While most of the language refers to mental illness, developmental disability is also mentioned several times

A footnote also states, “To the extent that the mandate has been applied to people with physical disabilities...the same general legal principles apply, but how they apply likely varies due to differences in context.”

Discrimination vs. Integration Mandate

Discrimination

Places the burden on the **person with a disability**
Must prove they are unjustifiably institutionalized or at risk of institutionalization
Must prove institutional isolation is a form of discrimination
Must take their argument to state agencies, courts, or the Department of Justice

Integration Mandate


Places the burden on the **state**
State must ensure all who want to can live in the community

Why Does This Matter Federally?

The federal government could re-write the regulations for Section 504 or the ADA



Congress could revise or rewrite the Rehabilitation Act or ADA – and could water it down




Additional cases could go to the Supreme Court and they could overturn *Olmstead*

Why Does This Matter for Our Families?


There will likely be little to no federal enforcement of *Olmstead* by the federal government



Could lead to certain states claiming that providing community living is too burdensome and expensive, especially since Medicaid is being cut



Cases like *Ligas*, *Colbert*, or *Williams* may not be able to move forward, or consent decrees may be ended



Up to individual people with disabilities to fight for their rights, potentially without the backing of our current laws and regulations

Three-Tiered Approach to Dismantling Disability Rights

1

CUT THE MONEY

- Medicaid cuts put financial pressure on states
- HCBS Medicaid services are **OPTIONAL** and one of the only programs that can be cut

2

TAKE AWAY CIVIL RIGHTS

- Attack Section 504, ADA, and *Olmstead*, saying states are not mandated to provide community living options

3

REMOVE ENFORCEMENT

- Eliminate enforcement of *Olmstead* and other disability rights cases by the DOJ

Part of a Larger Effort to Devalue the Lives of People with Disabilities

- Use of the R word and other degrading language, including by the president and people in charge of civil rights at the DOJ
- Changes to Special Education, with portions being moved to HHS and DOJ
- Medicaid and SNAP cuts; changes to Marketplace coverage
- People with mental illness or homelessness particularly targeted
- Including disability in initiatives to get rid of DEI
- Cuts to health research and public health efforts
- Removing ASL and other accessibility to federal information
- Cut Civil Rights enforcement staff
- And much more...

Reassurance from Illinois



Governor JB Pritzker 

19h · 



Disability rights are civil rights.

We will not allow decades of progress toward inclusion, independence, and empowerment for people with disabilities to be undermined.

Illinois will continue building on that progress, not retreating from it. **See less**



WHAT CAN
YOU DO?

Have grace
and
compassion
for yourself,
your family
members,
and your
community
members



Recognize the intensity of this moment, and allow yourself and your community to feel the spectrum of emotions



Discomfort, fear, sadness, and anger are normal reactions to this unprecedented moment



Find opportunities to focus on self-care and rest whenever possible

Accurate information is critical

- Read and share accurate information
 - Subscribe to The Arc of the United States and The Arc of Illinois' newsletters for timely, accurate updates from qualified experts
 - Connect with members of your community who don't have access to these resources
 - Push back when you hear people sharing incorrect information
- Refrain from fearmongering
 - Share accurate information, but provide tangible opportunities to engage in advocacy and resistance
 - It is difficult to jump into action when we are frozen in fear



Jump into action!

- Connect with a community organization or support group
 - Attend the Family Support Group
 - Next meeting June 30: Family Support Group - The Arc of Illinois
 - Attend a REV UP Illinois meeting
 - Next meeting July 2: REV UP Illinois Monthly Meeting - The Arc of Illinois
 - Attend a Going Home Coalition meeting
 - Next meeting July 15: Going Home Coalition Education Session: Ending Qualified Immunity - The Arc of Illinois

Senator Duckworth to introduce Senate resolution demanding the DOJ rescind their June 18 opinion



[Duckworth, Schumer, Durbin Lead Senate Democrats in Introducing Resolution to Reaffirm Promise of Olmstead, Protect Disability Rights and Condemn Trump Administration's Latest Attack | U.S. Senator Tammy Duckworth of Illinois](#)



Read the resolution here: [KIN26371](#)



Both Senator Durbin and Senator Duckworth are sponsors on this resolution



Have family members in other states? Have them contact their US Senators and ask them to sign on to Senator Duckworth's Resolution

Find your US Senator or Representative: [Find Your Members in the U.S. Congress | Congress.gov | Library of Congress](#)

More Action Items

- Encourage your provider, CIL or local advocacy organization to encourage the Illinois Attorney General to work with other Attorneys General to publicly oppose the opinion
 - [Office of the Illinois Attorney General Kwame Raoul](#)

- Encourage your State Senators and Representatives to support these bills:
 - [HB4827](#) The Freedom Fund: Establishes a \$40 million discretionary fund to be used by individuals living in institutional settings to move into the community of their choosing
 - [HB4967](#) Disability Protections Conservation Act: Shelters in Illinois state law the accessibility guidance provided by the federal Section 504 regulations as they existed on January 19, 2025. Ensures that this guidance remains in place for Illinois residents regardless of changes made to federal Section 504 regulations.



Vote!

- Voting is one of many ways that we can encourage our legislators to protect our rights
- General Election: November 3, 2026
- [Illinois Voting Information](#)
- [Home Page • Illinois State Board of Elections](#)



Connect with Community

- Find opportunities to connect with your community, whether it is through activism or joy-based activities
- Remember that people with disabilities have and always will exist
- Honor the work of our disabled ancestors who sacrificed for the rights we have today, and fight for a better future for those who will come after us
- Always remember: Nothing About Us Without Us!