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U.S. DOJ rescinds long-standing guidance on ADA, rights of people with disabilities to live in the community

On July 20th the U.S. Department of Justice issued a [notice](#) to rescind its [long-standing guidance](#) on enforcement of the Americans with Disabilities Act's (ADA) integration mandate and *Olmstead v. L.C.* declaring the guidance "not enforceable." The guidance says what qualifies as the most integrated setting under the ADA and Olmstead, who should be able to access services in the community, and much more.

The integration mandate is the foundation of disability civil rights, ensuring that people with disabilities can live, work, and participate fully in their communities.

Disability advocates worry the rescinding of guidance is part of a larger pattern attacking disability rights.

Last month, the U.S. Department of Justice released [an opinion](#) that argues core civil rights laws—the Americans with Disabilities Act, the Rehabilitation Act, and the 1999 Supreme Court Olmstead decision—do not require states to integrate people with disabilities into the community. [The U.S. DOJ's opinion is contrary to decades of interpretation and long-standing legal precedent.](#)

The U.S. DOJ opinion does not change the law, but it sends a signal to federal agencies and states that U.S. DOJ will not enforce current law or object to changes that may undermine or remove supports that help people live in the community.

An ongoing legal case [Texas v. Kennedy](#) is challenging Section 504 of the 1973 Rehabilitation Act. The lawsuit challenges whether people with disabilities have a right to live in the community and wants to let states decide whether to provide community services without worrying about creating conditions that force people into institutions. The U.S. DOJ opinion and subsequent revocation of guidance are in alignment with the plaintiffs, and Texas has pointed to the DOJ memo as "supplemental authority" for the court to consider.

Advocates worry other federal actions are moving in a similar direction, including:

- Moving oversight of special education out of the U.S. Dept of Education to the Dept of Health and Human Services and moving civil rights enforcement of IDEA (which guarantees students with disabilities access to education) to U.S. DOJ.
- Stopping Medicaid payments for care work that has already been completed and withholding future payments on suspicion—not evidence—of fraud and specifically

targeting home care services that support people with disabilities and older adults and [jeopardizing access to care](#).

- Proposing Medicaid [work requirement rules that will make it harder](#) for family caregivers, people who are ill, have chronic conditions, or who have disabilities to meet exemption requirements.
- Multiple changes that threaten the paid caregiver workforce, including proposals to roll back minimum wage, overtime, and other labor protections for home care workers.
- Taking back already awarded federal grants or delaying awarding of federal funds appropriated by Congress that are intended to support people with disabilities.

“Collectively, these actions are moving us backwards toward a time when people with disabilities were set aside in abusive, expensive institutions and denied the basic expectations every able-bodied person has, to live at home with people they choose, to learn, to work, to choose what they want to do and find joy,” said Jason Glozier, Survival Coalition co-chair.

“Actions that question whether people with disabilities should be in the community or make it harder for people who need care to remain in the community are an attack on all of us.” said Tami Jackson, Survival Coalition co-chair. “People with disabilities are the largest minority in the country and the only one that any of us can join at any time. These laws protect all of us.”

“No one wants to be forced into an institution because there is not enough home care infrastructure to provide help,” said Patti Becker, Survival Coalition co-chair. “Anyone who needs a little help to stay in their home won’t get it if there are no workers or providers. And all of us will need that help.”