



September 19, 2017

Rachel L. Brand
Associate Attorney General
Chair, Regulatory Reform Task Force
U.S. Department of Justice
950 Pennsylvania Avenue NW.
Washington, DC 20530

Re: Disability Rights Issues Considered by the Department of Justice Task Force on Regulatory Reform

Dear Ms. Brand:

The undersigned members of the Consortium for Citizens with Disabilities (CCD) submit this brief comment in response to a number of comments submitted as part of the information collection by the Task Force for Regulatory Reform seeking input on regulations and other actions that should be repealed, replaced, or modified. CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We noticed that several of the comments submitted to the Task Force (primarily brief comments from individuals) urged that the Justice Department eliminate its guidance documents concerning the Americans with Disabilities Act's (ADA's) integration mandate and the Supreme Court's decision in *Olmstead v. L.C.* Most of these comments appear to misconstrue the *Olmstead* decision and subsequent case law, as well as the meaning of these guidance documents.

In passing the Americans with Disabilities Act, Congress expressly found 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." 42 U.S. C §12101(a)(2). When the Supreme Court decided the *Olmstead* case, it found that needlessly institutionalizing people with disabilities perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life." *Olmstead v. L.C.*, 527 U.S. 581,600 (1999). The work of the Department of Justice to require States to provide community based services is critical to stop the needless institutionalization of people with disabilities, including individuals with intellectual and

developmental disabilities as well as individuals with mental health conditions or physical disabilities, and older adults who want to age in place with supportive services in their homes.

We do not believe it is necessary to rebut each mischaracterization of the law, but instead point out that the referenced guidance documents do not make new law and simply reflect established case law interpreting the ADA's integration mandate.¹ Eliminating these documents would not change the law and would accomplish little except to generate confusion among stakeholders and regulated entities. The Department's guidance in this area has provided stakeholders with plain-language information to help them understand what the courts have required. Finally, we note that no comments or complaints concerning the ADA's integration mandate were submitted by state or local government agencies—the entities *regulated* by this part of the ADA.

Please feel free to contact Jennifer Mathis at the Bazelon Center for Mental Health Law, (202) 467-5730 ext. 1313, jenniferm@bazelon.org, with any questions.

Sincerely,

The Advocacy Institute

American Association on Health and Disability

American Association on Intellectual and Developmental Disabilities

American Foundation for the Blind

American Occupational Therapy Association

The Arc of the United States

Association of University Centers on Disabilities

Bazelon Center for Mental Health Law

Center for Public Representation

Council of Parent Attorneys and Advocates

Disability Rights Education and Defense Fund

Easterseals

Epilepsy Foundation

¹ We would be happy to provide a summary of caselaw supporting particular points in those guidance documents upon request.

Justice in Aging

Lutheran Services in America Disability Network

National Academy of Elder Law Attorneys

National Alliance on Mental Illness

National Association of State Head Injury Administrators

National Council on Disability

National Disability Rights Network

National Health Law Program

Parent to Parent USA

Special Needs Alliance

TASH

United Cerebral Palsy