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Olmstead Under Fire:

The Trump Administration's Legal Strategy to Push People with Disabilities Back Into the Shadows

On June 18, 2026, the Trump Administration took a significant step toward removing an important legal barrier that helps people with disabilities stay in their homes and communities. This step took the form of a [legal opinion from the Office of Legal Counsel](#) (OLC).

What is the “Integration Mandate?”

For more than two decades, the federal government has recognized that the Americans with Disabilities Act (ADA) and related law impose an “integration mandate.” This mandate takes the form of DOJ regulations requiring public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” [28 C.F.R. § 35.130\(d\)](#).

The integration mandate comes from the U.S. Supreme Court’s [landmark 1999 Olmstead ruling](#), in which the Court considered the claims of Lois Curtis and Elaine Wilson—two adult disabled women who challenged Georgia’s decision to place them indefinitely in institutional care settings against their wishes. In response, the Court affirmed that unjustified segregation of individuals with mental disabilities could constitute discrimination under the ADA.

With this new OLC Opinion, the Trump Administration has fired the opening salvo in a campaign to destroy the integration mandate, inviting a return to institutional warehousing as the default setting for disabled people to live and receive care. The stakes are nothing less than the dignity and self-determination of people with disabilities, who ought not to have the hard-won infrastructure that facilitates full participation in their communities yanked from beneath them.

Why Did the Trump Administration Issue the OLC Opinion?

The June 18 OLC Memorandum Opinion was written as a response to three legal questions posed by the Counsel to the President concerning the integration mandate. It is important to remember that the OLC Opinion is just that—an opinion. It does not change any existing law. But it does carry important signals both to Administration officials and external actors as to the Administration’s policy goals and methods.

Since the early months of this Administration, the President has made clear that he sees a direct connection between the integration mandate and central tenets of his political fearmongering on safety. [Executive Order 14321](#)—which serves as a direct precursor to the OLC Opinion—starts with the claim that “[e]ndemic vagrancy, disorderly behavior, sudden confrontations, and violent attacks have made our cities unsafe.” The OLC Opinion [cites one sentence](#) from Justice Kennedy’s concurring opinion in *Olmstead* to conclude that the integration mandate is the root cause of an increase in the rate of chronic homelessness. Assuming that the integration mandate has caused the recent rise in homelessness—despite the evidence of [other](#) causes—the Opinion’s solution is to jettison the integration mandate itself and return to the days of institutionalization as the default setting for people with mental disabilities. Executive Order 14321, in a similar vein, asserts that “[s]hifting homeless individuals into long-term institutional settings for humane treatment through the appropriate use of civil commitment will restore public order.”

What is the Office of Legal Counsel?

[OLC](#) has been referred to as “[the most important legal office in the federal government](#).” It acts as a kind of lawyer’s lawyer for the Administration, providing “[its own written opinions and other advice in response to requests from the Counsel to the President](#),” and others across the Executive Branch. Typically, OLC is called on where there is a complicated legal issue or an intra-Administration conflict. At its best, OLC acts as a governor on Executive Branch overreach, prioritizing rule of law principles over political expediency. However, OLC has been criticized for [departing from its historical role as a source of honest, rigorous legal advice](#) and instead providing legal justifications for the president’s [national security](#) or other goals.

However, the *Olmstead* ruling that governs this area (see the textbox at the start of this piece) is a Supreme Court decision and cannot be changed without a subsequent ruling or an act of Congress. Enter the OLC Opinion. With a detailed legal strategy for undermining *Olmstead*’s holding, the OLC Opinion is an invitation to state attorneys general looking to free their states from the requirements of the integration mandate. Litigation will inevitably follow.

What Does the OLC Opinion Say?

To understand the OLC Opinion, it is necessary to review *Olmstead* itself.

[Olmstead v. L.C.](#), 527 U.S. 581 (1999) was a fractured Supreme Court decision, meaning that no justice wrote an entire opinion that was joined in full by a majority of the Court. Justice Ginsberg wrote the main opinion, much of which was joined by a majority of the justices, including Section IIIA, which held that the ADA prohibits unjustified segregation of people with mental disabilities as a form of discrimination. This ruling is settled legal precedent. However, part of Justice Ginsburg’s opinion (Section IIIB) attracted only a plurality of the Court. This section discussed the degree to which states could defend against claims of disability discrimination by arguing that changes to their programs are so unreasonable as to constitute a “fundamental alteration” of the state’s services and programs. So, while *Olmstead* squarely holds that unjustified institutionalization can be illegal under the ADA, a state’s potential defenses against allegations of unjustified institutionalization are not nailed down in detail. It is this ambiguity that the OLC Opinion seizes on.

In the nearly three decades since *Olmstead*, federal courts interpreting this case have cited a three-part test in Justice Ginsburg's plurality opinion to apply the ADA. Institutionalization is not justified when:

[T]he State's treatment professionals have determined that community placement is appropriate; the transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities. See, e.g., *Pennsylvania Prot. & Advoc., Inc. v. Pennsylvania Dep't of Pub. Welfare*, 402 F.3d 374, 379 (3d Cir. 2005) (quoting *Olmstead*, 527 U.S. at 587).

With this understanding of *Olmstead*, the import of the OLC Opinion becomes clear. First, the OLC Opinion concludes that the integration mandate—tracing its origins to DOJ regulations—is not sanctioned by a majority of the *Olmstead* Court as an interpretation of the ADA. Second, the OLC Opinion catalogs a lengthy set of federalism and Commerce Clause concerns to suggest that the integration mandate is altogether beyond the power of Congress to enact. Last, the OLC purports to look at the ADA and its sister statute to ask whether their text or regulatory authority justify the integration mandate.

The legal analysis contained in the OLC Opinion is more than enough to guide a willing state to draft a lawsuit seeking to undermine *Olmstead* wholesale. That undermining could come through a future Supreme Court ruling that the integration mandate is unconstitutional, essentially reversing *Olmstead*, or through a narrower ruling that affirms the integration mandate but creates evidentiary burdens that would be all but impossible for a plaintiff to meet in practice.

What is at Risk for Disability Rights and the Social Safety Net, and How Are Advocates Fighting Back?

As The Arc [summarizes](#):

For people with disabilities, this [OLC Opinion] is about whether they can get services at home instead of being forced into a facility. It's about whether children and adults with disabilities can stay connected to their family, friends, school, work, and community life. It's about whether people have a meaningful way to protect their rights when a state or system says "no." ... People with disabilities shouldn't be forced into institutions because a state refuses to provide services in the community.

Throughout much of the twentieth century, people with intellectual, developmental, and psychiatric disabilities were institutionalized and often subjected to forced segregation, [justified in large part by the eugenics movement](#) and other racially and socially exclusionary ideologies. Growing public awareness and outrage over the conditions of confinement in [state-run hospitals and schools](#)—which in practice functioned as carceral spaces marked by [abuse](#), overcrowding, and even [medical experimentation](#)—helped catalyze the deinstitutionalization movement beginning in the mid-twentieth century.

Against this backdrop, *Olmstead* represented a watershed moment in affirming the right of people with disabilities to dignity, autonomy, and participation in community life, including the ability to study, work, and

live in ways previously denied to them. Although many have noted the [still-unfulfilled promise of *Olmstead*](#) and the ongoing fight to achieve full integration, the last 27 years have nonetheless seen [meaningful progress](#) for people with disabilities.

While the OLC Opinion alone changes nothing, it is a significant policy and legal shift with potentially drastic implications for the rights guaranteed under *Olmstead*, as well as for health care and other safety net services.

First, “[rights mean less when the federal government refuses to enforce them](#).” The OLC Opinion sends a strong message that the federal government will no longer defend the integration mandate – either in its relationships with States or in court. Administrative enforcement and oversight of state agencies can be expected to shrink consequently. Similarly, direct oversight of federally funded institutional caregivers will be affected. This shift may also manifest in [skepticism of or hostility to](#) programs that support home and community-based services.

Second, the OLC’s public opinions can be seen as signals to external parties. States eager to be free of federal government oversight will likely mount legal challenges to *Olmstead*. This may be seen as a first step in getting such a lawsuit before the Supreme Court with the goal of wiping *Olmstead* off the map.

[The fight for disability rights did not begin with this Administration](#), and it will not end in 2028. It has always been true that *Olmstead* is a starting point, not an end point. “[The promise of *Olmstead* was never simply about leaving an institution. It was about ensuring people with disabilities have the freedom to live, work, create, and belong in their communities](#).” Advocates resisting the push started by the OLC Opinion recognize that the supports for people living with disabilities under *Olmstead* were not adequate in the first place. So, the response to the Administration’s effort to re-institutionalize should be more than just defending the prior patchwork. The time is now to begin to reimagine what inclusion of disabled people looks like. Disabled people and their allies should continue to organize through advocacy networks such as the [National Disability Rights Network](#), support national leaders like [Bazelon Center](#) and the [Disability Rights Defense and Education Fund](#), and join their [local ARC chapters](#). CHLPI and other university based policy advocates—like those at [George Washington University](#)—will continue to translate the difficult landscape for stakeholders.

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