

Congress of the United States
Washington, DC 20515

February 14, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland,

We write to request the United States Department of Justice (“DOJ”) reinstate critical guidance describing state and local governments’ obligations to administer employment services in the most integrated setting appropriate to the needs of persons with disabilities, pursuant to Title II of the Americans with Disabilities Act (“ADA”) and the Supreme Court decision in *Olmstead v. L.C.*

In 1999, the Supreme Court ruled in *Olmstead v. L.C.*, 527 U.S. 581 (1999) that Title II prohibits the unjustified segregation of individuals with disabilities. In the years since, this integration mandate has been applied in a wide variety of contexts, including to where people with disabilities live, go to school, engage in recreational activities, and *where they work*.

In 2016, in accordance with federal court decisions and court-ordered settlement agreements, the DOJ issued the “Statement on Application of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C.* to state and local Governments’ Employment Service Systems for Individuals with Disabilities.” This important guidance fulfilled the DOJ’s responsibility to supply information and explanation to the entities it regulates on settled applications of the ADA. Based on existing statutory, regulatory, and case law in addition to court-ordered settlement agreements, the guidance served as a tool for states and stakeholders to understand the landscape of federal law and to collaborate in rebalancing employment service systems that significantly over-rely on segregated institutional employment settings.

Unfortunately, in 2017, the DOJ rescinded the guidance, along with nine other ADA-related documents, with no explanation or justification. At the time, over 200 disability organizations sent a letter to the DOJ opposing the withdrawal of the guidance.¹ Nevertheless, to date, it remains rescinded.

¹ Consortium for Citizens with Disabilities (CCD) Letter to DOJ in Response to Olmstead Guidance Withdrawal (Jan. 5, 2018), <https://www.centerforpublicrep.org/initiative/doj-withdraws-olmstead-employment-guidance/>.

Despite the ADA's promise of integration, the vast majority of federal disability services dollars are spent on segregated employment and day services. In such settings, people with disabilities typically do not interact with people without disabilities, except for paid support staff, and lack access to economic self-sufficiency. Supported employment services, by contrast, help people with disabilities secure and maintain competitive integrated employment, which is critical to achieving the ADA's promise of integration. Most persons with disabilities are interested in these services, yet many states continue to provide most employment services in sheltered workshops, where people are segregated from the rest of the community, often earn a subminimum wage, and have limited opportunities to develop job-related skills. These sheltered environments do not aid people with disabilities in achieving competitive integrated employment, which ought to be the goal.

We urge you to reinstate the guidance so that states can reduce their reliance on segregated employment services and increase the provision of supports and services, such as supported employment, that allow people to earn a competitive wage in integrated work settings.

Reinstating the guidance can only benefit regulated entities, since it would provide them with clear examples and technical assistance to better understand the meaning of existing law. For persons with disabilities facing barriers to work, including discrimination and segregation, reinstated guidance could meaningfully improve their access to competitive integrated employment. This is a critical step in realizing the ADA's promise of economic self-sufficiency, equal opportunity, independent living and full participation in everyday life.

Thank you for your consideration of this request.

Sincerely,



Steve Cohen
Member of Congress



Jamaal Bowman, Ed.D.
Member of Congress



Yvette D. Clarke
Member of Congress



Lloyd Doggett
Member of Congress



Byron Donalds
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress



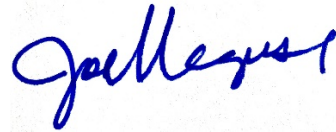
Mondaire Jones
Member of Congress




Carolyn B. Maloney
Member of Congress



Kathy Manning
Member of Congress



Joe Neguse
Member of Congress



Ilhan Omar
Member of Congress



Jamie Raskin
Member of Congress



Lucille Roybal-Allard
Member of Congress



Deborah K. Ross
Member of Congress



Mary Gay Scanlon
Member of Congress



Eric Swalwell
Member of Congress



Paul D. Tonko
Member of Congress

cc: Deputy Attorney General Lisa Monaco, Associate Attorney General Vanita Gupta, Assistant Attorney General for Civil Rights Kristen M. Clarke