
Community Living and Disability Rights

APRIL Conference

Association of Programs for Rural Independent Living

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Disability Rights New York

DRNY is New York's statewide Protection & Advocacy (P&A) system and Client Assistance Program (CAP).

We advocate for New Yorkers with disabilities to make their own life choices, participate in their communities and enforce their rights.

Our nonprofit team includes lawyers, advocates and intake specialists, with offices in Albany, Brooklyn and Rochester.

How DRNY became New York's P&A

Congress created the P&A system after public reports exposed conditions at Willowbrook in Staten Island.

The national network now includes 57 P&A systems serving states and territories.

In 2013, DRNY became New York's P&A and CAP provider, taking over from a state agency. Federal funding supports this work.

DRNY's P&A programs and CAP

Disability rights programs

PADD: developmental disabilities

PATBI: traumatic brain injuries

PAIMI: mental illness

PAAT: assistive technology

PAIR: individual rights

CAP: Client Assistance Program

PABSS: Social Security beneficiaries

PAVA: voting access

PARP: representative payees

You do not need to know a program's initials to ask for help. Intake staff can guide you.

How DRNY can help

Information and help

Information, referrals and help understanding disability rights.

Legal advocacy

Individual legal representation and work to change problems affecting many people.

Education and outreach

Rights education for people with disabilities, the public and policymakers.

Monitoring and investigations

Visits, interviews and records review to investigate concerns and monitor services.

DRNY works on education, employment, housing, health care and access to community living.

Services DRNY does not provide

Criminal cases

Criminal defense representation.

Family court

Representation in matters such as divorce and child custody.

Non-legal services

Service coordination or job placement.

Benefit appeals

Appeals for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

If you need these services, DRNY staff can refer you to other organizations or attorneys.

What we will explore together

150

minutes of learning,
discussion and Q&A

Understand what the Texas court changed.

Understand DOJ's memo and what it means.

Learn what the cases may mean for community living.

Discuss ways to ask for support and protect your choices.

Three legal protections for community living

Section 504

Section 504 protects against disability discrimination in programs with federal funding and federal agency programs.

Americans with Disabilities Act

Title II of the ADA protects against disability discrimination in state and local government services.

Olmstead

In 1999, the Supreme Court said unnecessary separation in institutions can be discrimination.

Community integration means taking part in community life. Which law applies depends on the program.

Section 504 and ADA Title II: who they cover

Section 504

Part of the Rehabilitation Act of 1973.

Covers programs receiving federal financial assistance, including public and private organizations.

Also covers programs run by federal agencies.

ADA Title II

Part of the Americans with Disabilities Act of 1990.

Covers state and local government programs and services.

Applies even when they receive no federal funding.

Both prohibit disability discrimination. A state or local program with federal funding may have duties under both.

Olmstead: why the Supreme Court case matters

Two women asked to leave

Lois Curtis and Elaine Wilson remained in a Georgia institution after professionals said community services were appropriate.

They sued under the ADA to receive care in the community.

The Court's 1999 decision

Unjustified separation in institutions can be disability discrimination under ADA Title II.

The decision supports community services when its conditions are met.

The person's own choice matters.

Olmstead v. L.C., 527 U.S. 581 (1999). The next slide explains the conditions and limits.

Olmstead and your choice to live in the community

Under ADA Title II, states must provide community services when these conditions are met.

1 Appropriate

State treatment professionals find community services appropriate for you.

2 Wanted

You do not oppose living in the community.

3 Reasonable

The state can reasonably provide them, considering its resources and others' needs.

Olmstead and the risk of institutionalization

People can seek community integration before entering a facility.

Preventing institutional placement

Courts have applied Olmstead to protect people living in the community.

Serious risk of institutionalization can support a claim before facility entry.

Recent legal developments challenge these ADA and Section 504 protections.

The following slides examine those challenges. Requirements depend on the court and claim.

Key developments in 2026

March 31	Florida: Appeals court upheld ADA liability and much of the injunction, but reversed some provisions.
June 18	DOJ memo: Argued for narrower community-integration duties. It cannot overrule the Supreme Court.
September 3	B.D. v. Ayotte: Serious-risk claims could proceed. Requested program changes remained undecided.
September 11	Powers: Court declined full-court review. The supportive-housing order survived.
September 15	Florida: Court ordered mediation and paused further-review requests, with no final resolution.
September 23	Texas: Court set aside specific HHS integration rules. Section 504, the ADA and Olmstead remain.

DOJ issued a memo on Olmstead and community living

June 18

2026 OLC
memorandum

The U.S. Department of Justice issued an Office of Legal Counsel memo.

The memo gives a narrower reading of Olmstead, Section 504 and ADA Title II.

It may shape federal enforcement and court arguments. It cannot overrule the Supreme Court.

OLC advises the federal government. Its memo is a legal position, not a court decision.

DOJ's memo argues for narrower duties

What DOJ's lawyers say

The June 18 memo argues that Section 504 and ADA Title II do not require the community integration duties it describes.

It gives Olmstead a narrower reading.

What the memo can do

The Office of Legal Counsel advises the federal government.

Its memo may affect how federal officials enforce the law and argue cases.

It cannot overrule the Supreme Court or control other courts.

DOJ means Department of Justice. Its Office of Legal Counsel is called OLC.

What DOJ's lawyers argue

The laws

OLC says the ADA and Section 504 do not require the integration duties it describes.

Federal agencies

OLC says Congress did not give agencies power to create those duties through rules.

Olmstead

OLC reads the decision as allowing justified institutional care, without a broad integration duty.

Federal power

OLC questions whether broad duties would exceed Congress's power over states.

People dispute these arguments. The memo is not a new Supreme Court decision.

DOJ can argue a position, but courts decide

Texas and Florida

Texas: the parties cited the memo when asking to set aside HHS rules.

Florida: DOJ asked to set aside a ruling. The court declined for now and ordered talks to resolve the case.

B.D. and your questions

B.D.: the court said it still had to follow earlier decisions from its appeals court.

You can ask which law or court order supports a service decision.

A government opinion, a request to a court and a court order do different things.

A response when someone says rights are gone

“The court changed specific regulations. Other disability rights protections still apply.”

You can ask which law or order the agency is using.

You can ask for the service decision in writing.

A legal advocate can help you check deadlines and options.

Powers v. McDonough: housing and community living

Sept. 11

2026 appeals update

Los Angeles veterans with disabilities who lacked housing sued the VA as a group.

They said too little supportive housing put them at serious risk of entering institutions.

They relied on Section 504 to seek community living and access to VA care.

VA means Department of Veterans Affairs. A class action addresses claims for a group.

Powers: the district court ruling and the appeal

What the district court said

Too little supportive housing denied veterans with disabilities meaningful access to VA health care.

The court ordered more housing on the West Los Angeles VA campus.

It also struck down certain campus leases.

What the VA challenged

The VA challenged the court's power to hear the disability claims and order housing as a remedy.

The appeal also challenged rulings on housing income limits, campus leases and other relief.

District ruling: Sept. 6, 2024. Final injunction: Oct. 11, 2024. Appeal: No. 24-6576.

Powers: what the appeals court changed

Land-trust claim	Reversed the veterans' win on a separate claim that the VA breached duties under a charitable trust.
HUD judgment	Set aside the judgment against HUD, the federal Department of Housing and Urban Development.
Campus leases	Narrowed the district court's lease-related orders. Those orders did not survive in full.
Housing retained	Kept the Section 504 rulings against the VA and the order to build supportive housing.

Powers v. McDonough, 163 F.4th 1162 (9th Cir. 2025). Decision: Dec. 23, 2025.

Powers: housing can protect access to care

On September 11, 2026, the appeals court declined review by a larger group of judges.

What the court upheld

Section 504 requires meaningful access to VA health care. The court upheld supportive housing as a remedy for disability-related barriers to care.

The housing order survived, although other parts of the judgment changed.

How this helps protect rights

For ADA/504 and Olmstead advocacy, connect unmet support needs to barriers to care and risk of institutionalization.

Powers supports Section 504 enforcement against the VA. It creates no universal right to housing.

Powers connects housing to access to care

A housing barrier can also be a disability access barrier.

What this may mean for you

Keep track of how housing problems affect your access to care.

Describe what support you need to avoid entering an institution.

A lawyer can explain which laws and court decisions apply to your situation.

The case does not establish an automatic right to a home for everyone.

B.D. v. Ayotte: the September 2026 ruling

Sept. 3

2026 decision on
community
integration

The court allowed claims based on serious risk of institutional placement to continue.

The youth established that community placement was appropriate and they did not oppose it.

The court left the requested program changes for further briefing or trial.

The state won on the separate Child Welfare Act case-planning claim.

B.D. v. Ayotte: community living for youth

What the case is about

A class of adolescents with mental disabilities in New Hampshire foster care sued state officials.

They challenge unnecessary institutional placement and serious risk of placement under ADA Title II and Section 504.

What the plaintiffs seek

Court-ordered changes so youth can receive services in appropriate community settings.

They proposed eleven changes to the foster care system to reduce institutionalization. The court had not ordered all of them.

B.D.: youth could seek help before entering institutions

The child welfare case

Young people with mental disabilities in New Hampshire foster care challenged unnecessary institutional placement.

The case also includes youth at serious risk of that placement.

What the court decided

The court allowed claims based on serious risk to continue.

The youth showed community placement was appropriate and they did not oppose it.

The court had not decided all requested program changes.

September 3, 2026: the state won on a separate claim about Child Welfare Act case plans.

B.D.: why the serious-risk claims could continue

Before admission

The court allowed people to bring these claims before entering an institution.

Other court decisions

Other appeals courts recognized serious-risk claims without relying on DOJ guidance.

DOJ's memo

A new agency view could not replace earlier appeals decisions the court had to follow.

The right to sue

B.D. already lived in an institution. The court said B.D. could bring the case.

Allowing a claim to continue does not mean the person has proved every part of the case.

B.D.: the requested changes still need proof

What the court still needs

The people who sued must show why each requested change is reasonable and needed.

The state can challenge that proof. It must prove any claim that a change would alter the program's basic nature.

Information that can help

What specific change would help?

How could it reduce the need to enter an institution?

Why is it needed, and how does it respect the person's choices?

The court allowed more written arguments or a trial. It did not order all eleven requested changes.

United States v. Florida: children's care at home

Mar. 31

2026 appeals
decision

The United States sued Florida in July 2013 over services for children with complex medical needs.

It alleged that service gaps kept children in nursing facilities or put them at serious risk of placement.

Under ADA Title II, it sought care in family homes or other appropriate community settings.

United States v. State of Florida, No. 23-12331 (11th Cir. Mar. 31, 2026).

Florida: the district court's ruling

What the court found

On July 14, 2023, the court found an ADA Title II violation under Olmstead.

Florida's service gaps unnecessarily kept children in nursing facilities and put others at serious risk of entering them.

What the court ordered

Improve access to one-to-one nursing care at home and coordinate needed services.

Plan and support children's moves from nursing facilities to the community.

Track progress with data and a court-appointed monitor.

United States v. Florida, 682 F. Supp. 3d 1172 (S.D. Fla. 2023). Trial ruling, before appeal.

Florida: service gaps behind the 2023 ruling

Nursing services

Children did not receive the recommended nursing care they needed at home.

Care coordination

Families needed help obtaining and organizing services so children could live in the community.

Transitions home

Children in nursing facilities needed plans and supports to move to community settings.

Florida: the appeals court's March 2026 decision

Liability affirmed

The Eleventh Circuit affirmed liability: it upheld the ruling that Florida violated ADA Title II under Olmstead.

The widespread violations justified an order addressing the service system as a whole.

Authority and limits

The United States could sue and seek relief beyond children who filed individual complaints.

The court upheld much of the injunction, but reversed some provisions.

Later review and mediation followed.

United States v. State of Florida, No. 23-12331 (11th Cir. Mar. 31, 2026).

Florida: talks continue, with no final resolution

Sept. 15

2026 order for
mediation

The court sent the appeal to mediation talks to try to resolve the case.

It paused requests for the appeals judges to review the case again.

It declined DOJ's request to set aside the ruling but allowed a later request.

It invited lawyers for children at risk of entering facilities.

The court paused the review process. It did not finally reject requests for another review.

Texas: the court set aside specific HHS rules

Sept. 23

2026 final judgment

Five states remained: Texas, Alaska, Louisiana, Montana and Florida.

The parties agreed to ask the court to set aside specific community integration rules.

The court closed the case. The remaining claims could be brought again.

HHS means the U.S. Department of Health and Human Services.

Texas: how the challenge to HHS rules began

2024 update

HHS updated longstanding Section 504 rules in May 2024, strengthening community-living protections.

States sued

States sued HHS and its Secretary in September 2024. These federal officials were the defendants.

States' objections

States said HHS exceeded its legal power and imposed unlawful federal funding conditions. They challenged the whole rule.

Federal reversal

After a June 2026 DOJ memo, defendants stopped defending the integration rules. They joined states in asking the court to set them aside.

The agreement targeted integration provisions. Section 504 itself remains law.

The Texas court set aside six parts of the rules

§ 84.10	The definition of “Most integrated setting.”
§ 84.22(b)	Only the last sentence, which gave priority to integrated settings.
§ 84.43(d)	The whole subsection.
§ 84.68(d)	The whole subsection.
§ 84.76	The whole section on integration.
§ 84.93(b)	Only the last sentence, which gave priority to integrated settings.

“Vacated” means set aside by the court. § means “section.” These are parts of 45 C.F.R.

§ 84.68(d): the general integration requirement

“A recipient shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”

“Recipient” means the organization receiving covered federal funding.

The rule addressed how services fit an eligible person’s needs.

The Texas court set aside this whole subsection.

§ 84.76(a)–(c): who it covered and separation

Who it covered	Programs funded by HHS and the organizations running them.
What it required	Services in the most integrated setting that fits the person's needs.
Who lives there	Group settings where only or mainly people with disabilities live.
How life works	Strict routines, little privacy or choice, or limits on visitors and community activities.

This explains the former rule. The Texas court set aside all of § 84.76.

§ 84.76(d): four practices the rule prohibited

Access barriers

Rules that limit access to an appropriate community setting.

Unequal benefits

More benefits, or better terms, in settings that separate people with disabilities.

Unequal rules

Stricter requirements in community settings than in separated settings.

Service failures

Missing community services that cause institutional placement or a serious risk of it.

The practices had to cause unnecessary separation or serious risk. The court set aside this section.

§ 84.76: seeking help before harm occurs

This explains the former rule. The court set aside all of § 84.76.

Before entering a facility

The rule covered how services are planned, funded and delivered.

People did not have to enter an institution before asking to avoid unnecessary separation.

A possible legal defense

The funded organization could defend a refusal by proving that the requested change would alter the program's basic nature.

The legal term is "fundamental alteration."

§ 84.93(b): accessible medical services

Available methods	Accessible sites, home visits, accessible equipment or other effective methods.
Equipment choice	Accessible MDE is not required if another method effectively meets this rule.
The former priority	The last sentence favored methods that offer services in the most integrated appropriate setting.
What Texas changed	The court set aside only that last sentence. The other methods remain.

MDE means medical diagnostic equipment. Requirements to make programs accessible remain.

§ 84.43(d): operating an integrated program

“A recipient to which this subpart applies shall operate its program or activity in the most integrated setting appropriate.”

The former rule addressed how covered programs operate.

“Recipient” means an organization receiving covered federal funding.

Texas judgment: the court set aside all of § 84.43(d).

§ 84.22(b): methods for program access

Ways to provide access

Equipment changes, accessible sites, aides, home visits, building work or accessible transportation.

Existing buildings

Building changes are not required if another method effectively provides access.

Changing a building

If a funded organization changes an existing building, it must follow § 84.23 accessibility rules.

Former priority

The last sentence favored methods offering services in the most integrated appropriate setting.

The court set aside only the last sentence. The other access and building-change rules remain.

Important disability rights protections remain

Texas did not erase disability civil rights law.

Laws and court decisions

Section 504 remains.

The ADA and its rules remain.

The Supreme Court's Olmstead decision remains.

Other protections

Other parts of the 2024 HHS rule remain.

DOJ's Section 504 integration rule remains.

The order does not require cuts to services in your home or community.

Discussion: break for questions

What questions do you have about what we've covered so far?

Break

30

minutes

Break: 10:30–11:00 a.m.

We resume at 11:00 a.m. with DRNY's community-living cases.

DRNY's court cases about community living

- 01** **O'Toole: community housing for adults**
O'Toole v. Hochul (formerly O'Toole v. Cuomo), No. 1:13-cv-04166 (E.D.N.Y.).
- 02** **C.K.: community mental health care for children**
C.K. v. McDonald (formerly C.K. v. Bassett), No. 2:22-cv-01791 (E.D.N.Y.).
- 03** **C.J.P.: community services after residential school**
C.J.P. v. Office for People with Developmental Disabilities, No. 1:17-cv-06965 (E.D.N.Y.).
- 04** **M.G.: support after prison release**
M.G. v. Cuomo, No. 7:19-cv-00639 (S.D.N.Y.).

DRNY and other lawyers work to protect access to community life

O'Toole ends after years of work on community housing

1,000+

people moved to
community housing

DRNY, Bazelon Center for Mental Health Law, Mobilization for Justice, New York Lawyers for the Public Interest, and Paul, Weiss, Rifkind, Wharton & Garrison LLP challenged separation in New York adult homes.

A 2013 settlement required the state to provide supported community housing.

The lawyers announced the case's end in July 2026 after the required court-supervised work finished.

O'Toole v. Hochul (formerly O'Toole v. Cuomo), No. 1:13-cv-04166 (E.D.N.Y.).

O'Toole: why adult home residents sued

What the case was about

New Yorkers with serious mental illness lived in large adult homes with restrictive routines and limited community life.

Residents brought a class action against state officials, challenging unnecessary segregation under the ADA and Section 504.

O'Toole v. Hochul (formerly O'Toole v. Cuomo),
No. 1:13-cv-04166 (E.D.N.Y.).

Why the plaintiffs sued

They wanted a real choice to live in their own homes with services and support.

They argued that New York's system kept them in institutions because it lacked enough supported community housing, contrary to Olmstead's integration principle.

O'Toole: what services mean in everyday life

Choice	Can you make a real choice about where you live?
Housing	Is a home actually available, beyond a referral?
Support	Will you have the support you need after moving?
Follow-through	Who will check that the home and support work for you?

Questions for self-advocates and families, based on the work to carry out the settlement.

C.K.: mental health care at home

C.K.

Mental health care
at home

Children on New York Medicaid lacked intensive mental health services they needed to stay safely at home. They alleged that service gaps caused unnecessary institutional placement or serious risk of it, violating Medicaid, the ADA and Section 504.

A court order requiring timely access to intensive services at home and in the community.

They sought coordinated care, treatment at home and crisis support so children could live with their families. They sought system changes, rather than money damages.

C.K. v. McDonald (formerly C.K. v. Bassett), No. 2:22-cv-01791 (NJC) (JMW), Dkt. 86 (E.D.N.Y. Jan. 15, 2026) (final settlement approval).

C.K. seeks services that keep children at home

DRNY and other lawyers

DRNY, Children's Rights, NHeLP and Proskauer brought the case in 2022.

It concerns New York children and youth under 21 who qualify for Medicaid and need intensive mental health services.

Why services matter

The lawsuit says service gaps cause unnecessary institutional placement or serious risk of it.

It relies on the ADA, Section 504 and Medicaid's requirements for children's health care.

C.K. v. McDonald, formerly C.K. v. Bassett. A claim in a lawsuit is different from a court's finding.

C.K.: the agreement requires service improvements

Care coordination	More help organizing a child's services and supports.
Services at home	Expanded in-home behavioral health services for children and youth.
Crisis response	Stronger crisis services that can come to people in the community.
Checking progress	More service capacity, shared information, independent monitoring and court supervision.

The court gave final approval in January 2026. The state still has to carry out the agreement.

C.J.P. challenges delays after residential school

C.J.P.

DRNY and Kasowitz
LLP

The lawsuit says adults with developmental disabilities stayed in residential schools after finishing their education. It says they qualified for community services and did not oppose moving.

The lawsuit says OPWDD failed to plan their moves, leaving them in institutions unnecessarily.

They asked for timely access to suitable community homes and support.

C.J.P. v. Office for People with Developmental Disabilities,
No. 1:17-cv-06965 (E.D.N.Y.). Complaint allegations, not findings (Oct. 14, 2025).

C.J.P.: what people asked the court to do

Community living

Challenged unnecessary separation after their education ended.

Policy changes

Asked for reasonable changes to planning and carrying out moves to community homes.

Section 504

Claimed disability discrimination in OPWDD programs that receive federal funding.

Requested remedies

A group case, rulings on rights, orders supporting discharge and payments for individual harm.

These are requests in the lawsuit. The complaint does not show that the court granted them.

M.G.: community support after prison release

M.G.

Community support
after prison release

DRNY, The Legal Aid Society and Paul, Weiss challenge gaps in housing and services for people with serious mental illness leaving prison. The lawsuit says these gaps cause separation or risk of returning to institutions.

What DOJ said in 2021: DOJ asked the court to let the new ADA claims continue.

It supported claims about serious risk of institutional placement and unequal access to services.

M.G. v. Cuomo, No. 7:19-cv-00639 (S.D.N.Y.).

March 1, 2021 release: claims and DOJ's view, not a final court decision.

Discussion: what the cases mean in daily life

O'Toole: case concluded

More than 1,000 adults moved from separated adult-home settings to community housing.

The lawyers announced the case's end in July 2026.

C.K.: ongoing oversight

The agreement requires New York to improve children's community mental health services.

Monitoring and court supervision help check progress.

Discussion: transitions to community living

C.J.P.: after residential school

Adults with developmental disabilities challenged delays in moving from residential schools to community homes.

They sought suitable homes and support. These are complaint allegations and requests, not court findings.

M.G.: after prison release

People with serious mental illness challenged gaps in housing and services after prison release.

DOJ supported their ADA claims in 2021. That filing expressed a legal position, not a final court decision.

What changed, and what is still being decided

DOJ and Texas

DOJ's memo cannot overrule Olmstead. Texas set aside specific HHS rules. Section 504 and the ADA remain.

Powers and Florida

Powers: housing order survived. Florida: ADA liability upheld, some relief reversed, mediation unresolved.

B.D. v. Ayotte

Serious-risk claims could proceed. Requested program changes remained undecided.

DRNY's court cases

O'Toole ended. C.K. requires service improvements under oversight. C.J.P. and M.G. challenge gaps in community support.

One case or memo does not tell you everything about your rights.

Advocacy while the law changes

Individual advocacy

Help the person obtain a written explanation of a service denial or cut.

Document unmet needs and the person's goals.

Monitor deadlines.

Systemic advocacy

Track recurring service gaps while protecting confidentiality.

Coordinate with advocacy organizations and Centers for Independent Living.

Monitor rule changes and court orders that affect service access.

Obtain consent before sharing records or acting on their behalf.

Questions and answers for advocates

Legal developments

Which rulings or agency positions need clarification for your advocacy?

How do court orders, settlements and pending claims differ?

Applying this in advocacy

What records would help document service gaps or risk of institutional placement?

What should advocates ask agencies, and when should they involve legal counsel?

General questions without identifying people or sharing confidential details.

Your next step

- 01** One thing I understand better is...
- 02** One step I might choose is...
- 03** One question I still have is...



DRNY
DISABILITY RIGHTS NEW YORK

Contact DRNY

