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Time Is of the Essence

Big changes are being proposed at the federal level for children with unique abilities. Now is the time to check in, stay informed, and protect what matters.

KNOW YOUR RIGHTS

What Is Going On?

There has been a lot of chatter about the recommended changes at the federal level, which include shifts at the Department of Education, the Office for Civil Rights, the Office of Special Education and Rehabilitative Services, the Department of Justice, the Department of Health and Human Services, and general oversight. It is important to understand the proposed changes, what these offices do, and why they are important.

Children with unique abilities are federally protected under the **IDEA**. These protections guide public schools and inform parents, children, educators, administrators, and everyone who touches the life of a child with a unique ability on what their responsibilities are. The agency that oversees this accountability is the Department of Education. Importantly, the Office of Special Education and Rehabilitative Services (OSERS)

and the Office for Civil Rights (OCR) were historically structured under the Department of Education for good reason.

OFFICE OF SPECIAL EDUCATION & REHABILITATIVE SERVICES

“[Was]...created by Congress to oversee the Individuals with Disabilities Education Act (IDEA), which provides a free appropriate public education to students with disabilities. It is the operational backbone for protecting the educational rights of millions of students with disabilities.”

OFFICE FOR CIVIL RIGHTS

“...[E]nforces civil rights laws, including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA), ensuring equal educational opportunities for students with disabilities.”

SOURCE: NEA TODAY ›

So what is the issue?

The current administration seeks to move OSERS to the Department of Health and Human Services (HHS) and OCR to the Department of Justice (DOJ). Advocates from all walks of life agree this change would create uncertainty and challenges for persons living with disabilities and the many people who support them. Restructuring these agencies will, in many cases, harm our most vulnerable population.

In real terms, what does this mean? Let us think about it without even discussing unique abilities. When you restructure any organization, you lose expertise and well-established processes. Change and transition often take a long time. Many systems get lost in translation, and generally, though not always, it is hard to replace the depth of information and experience needed to sustain an organization in a reasonable time.

Families like mine do not have that time. We need clarity. When our families have concerning issues, we want our public schools to have a clear understanding of what they can and cannot do. We want our families to feel they have a voice, especially in the event of trauma, bullying, seclusion, or lack of access. In sum, we want the system to work. Families like ours want simple answers. We must navigate complex bureaucratic systems often. Whether we are in crisis or need support, we need experts and professionals ready and willing to provide sound advice.

I am a firm believer that it is important to educate people and provide them the resources they need to come to their own conclusion. **Knowledge is power!**

WHERE THE ADVOCATES STAND

- [Autism Speaks](#) opposes moving special education outside the Department of Education
- [The Arc](#) on the risk of a patchwork of rights for students
- [The Autism Society](#) and a broad coalition denounce the transfers
- [The Council for Exceptional Children](#) joins the coalition

Jacqueline Rodriguez, CEO of the National Center for Learning Disabilities, offers a [clear and visual explanation](#) of what this means for students with disabilities.

► **WATCH: WHAT THIS MEANS FOR STUDENTS**

Now is the time to check in. There is so much going on, and it is important to stay informed about the issues that matter to you. Protecting people's rights matters to me. If you know someone who could benefit from this information, please share it.

The DOJ Memo — Read It

The Department of Justice this week released a memorandum that sends a harmful message to states on how they support or engage with the disability community. Persons with disabilities fought for decades for inclusive support that prohibits institutionalized practices. The short explanation is that the Supreme Court upheld and agreed on the Integration Mandate, which encourages inclusion in our communities. The Department of Justice memorandum does not dispute the law, but it emphasizes that states should have the right to make their own decisions on whether institutionalization is necessary.

OLMSTEAD V. L.C., 527 U.S. 581 (1999)

In Olmstead v. L.C., 527 U.S. 581 (1999), the Supreme Court held that title II prohibits the unjustified segregation of individuals with disabilities. The Supreme Court held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and (c) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of others who are receiving disability services from the entity. The Supreme Court explained that this holding “reflects two evident judgments.” First, “institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life.” Second, “confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.”

To comply with the ADA's integration mandate, public entities must reasonably modify their policies, procedures, or practices when necessary to avoid discrimination. The obligation to make reasonable modifications may be excused only where the public entity demonstrates that the requested modifications would "fundamentally alter" its service system.

SOURCE: ADA.GOV ›

In years past, there was a theory that persons with disabilities should be hidden from sight. They were often placed in isolated, secluded spaces where there was no accountability or transparency on what happened in the facilities. It took decades of advocacy to change that mindset and allow persons with disabilities to live in the light, within the community, and to enjoy the benefit of humanity.

The Integration Mandate is a civil rights protection. It ensures that people who need extra help to live receive it without degradation and penalty.

Everyone knows someone who is disabled. Disabilities cut across income, race, gender, nationality, and age. Understanding a community population is the best way to live with them. **Dignity requires thought.**

[READ THE DOJ MEMO](#)

[NPR COVERAGE](#)

This video interview, while "dated," thoughtfully explains the experience of institutions. Taking care of persons with disabilities is quite personal.

[▶ WATCH: INSIDE THE INSTITUTIONS](#)

TIME TO CELEBRATE

A Milestone Year

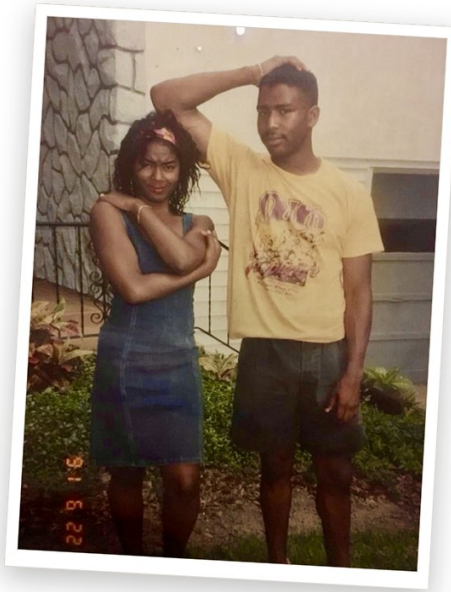
In every issue, I like to take a pause to celebrate individuals. This month I would like to celebrate my family, because it was a milestone year.



HAPPY FATHER'S DAY

To my wonderful husband, who sacrifices so much to ensure our children are cared for and protected.

HAPPY 30TH ANNIVERSARY



THEN & NOW

To my spouse of 30 years. He has not only been an exceptional father, he has been the best partner and friend I could have ever imagined. Growing up together and witnessing your strength is a continual blessing.



HAPPY BIRTHDAY

To our beautiful daughter. We cannot wait to see your transformation in this decade!

STAY CONNECTED

Keep up between issues — on the blog, in the archive, and online.

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LINKEDIN · INSTAGRAM

With gratitude,
KIMBERLY G. JACKSON
ATTORNEY • ADVOCATE • SPEAKER

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You are receiving this because you are part of the Proud Aspy Mom community.

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