

# SDAN

Self-Directed Advocacy Network of Maryland, Inc.

# WELCOME!

Office of Civil  
Rights  
Presentation

Questions

Listening  
Session

SDAN  
Updates

# SDAN – The HHS Office of Civil Rights Olmsted Meeting July 12, 2024



Please Mute.

Use Chat Box for questions. Please keep side conversations to a minimum.

We will be recording.

Close captioning available.

# WELCOME

Avni V. Jagarlapudi  
Erin Nugent  
Mordecai Simha

U.S. Department of Health and Human  
Services, Office of Civil Rights (OCR)  
Olmstead Section



Learn about Olmstead Act

Does it relate to your  
experiences?

How to file.

# AGENDA:

- ◆ OCR Presentation
- ◆ Questions for OCR, in the chat
  - ◆ Listening Session



# **HHS Office for Civil Rights Olmstead Enforcement**

Office for Civil Rights (OCR)  
U.S. Department of Health and Human Services

Avni Jagarlapudi, Erin Nugent, and Mordecai Simha

July 12, 2024



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**Office for Civil Rights**

# Agenda

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- Introduction to the HHS Office for Civil Rights
- OCR Olmstead Section Overview
- Noteworthy Regulatory Updates 2024
- OCR Complaints, Investigations, and Enforcement
- Listening session / Q&A



# Our History

The Office for Civil Rights was established following the passage of the Civil Rights Act of 1964 to address segregation in health care and other services receiving funds from the federal government.

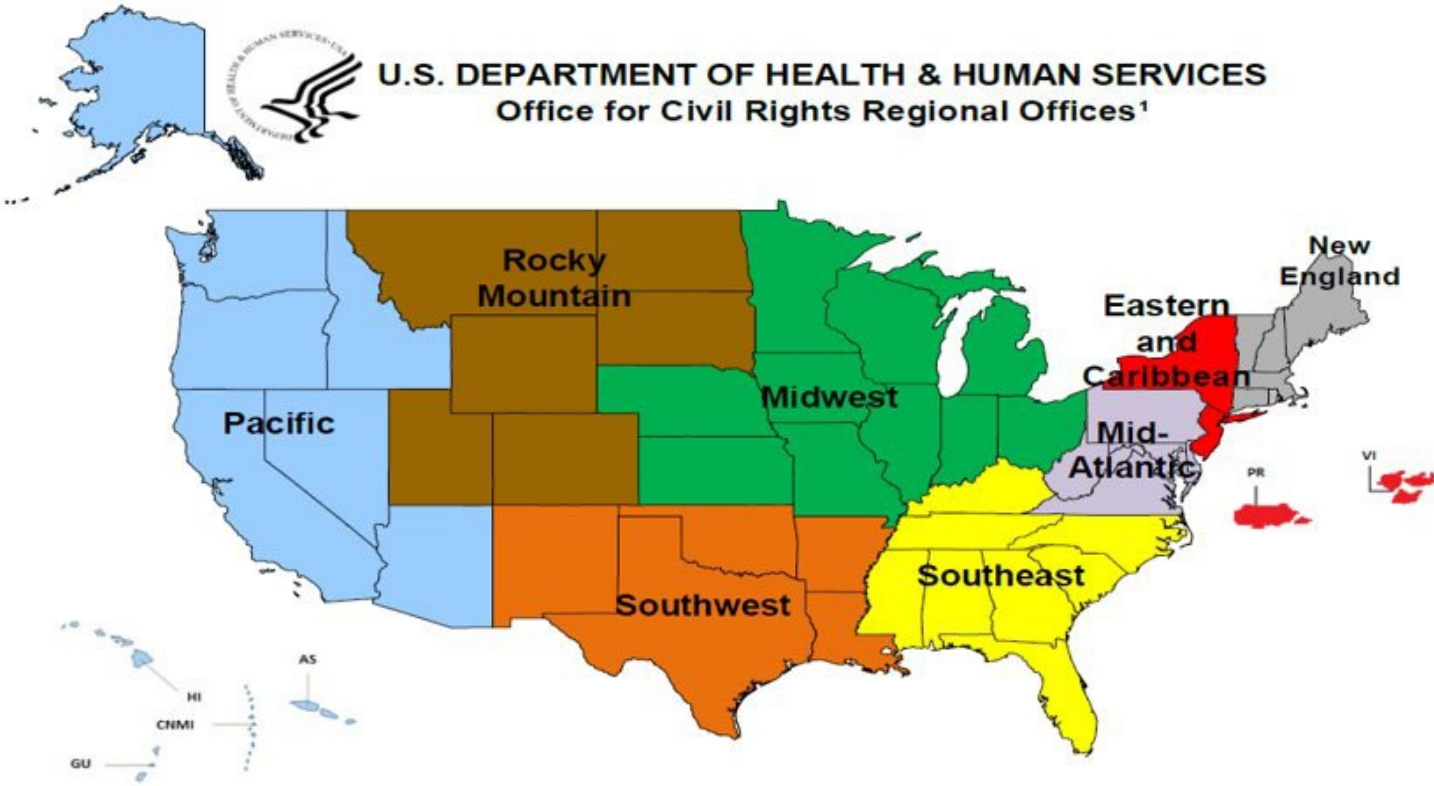
# What Is the Office for Civil Rights (OCR)?

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- The Office for Civil Rights operates as a Staff Division at the U.S. Department of Health and Human Services. OCR is tasked with enforcing a number of civil rights laws that protect non-discrimination in healthcare as they relate to recipients of Federal Financial Assistance from HHS, public entities, and programs & activities conducted by HHS.
- OCR enforces the HIPAA Privacy, Security, and Breach Notification Rules.



# Where We Are



<sup>1</sup> U.S. Department of Health and Human Services Regional Offices

New England Region: HHS Region 1	Midwest Region: HHS Region 5 and 7
Eastern and Caribbean Region: HHS Region 2	Southwest Region: HHS Region 6
Mid-Atlantic Region: HHS Region 3	Rocky Mountain Region: HHS Region 8
Southeast Region: HHS Region 4	Pacific Region: HHS Region 9 and 10

# Olmstead v. L.C., 527 U.S. 581 (1999)

- Case brought by Lois Curtis and Elaine Wilson, individuals with intellectual disabilities and mental health disabilities, confined in a Georgia state-run psychiatric hospital.
- U.S. Supreme Court held that Title II of the ADA prohibits states from unnecessarily institutionalizing persons with disabilities and from failing to serve them in the most integrated setting.



# Olmstead v. L.C., 527 U.S. 581 (cont.)

- The Supreme Court found that Community Integration must be provided when...
  - Integration is appropriate;
  - The person does not object to living in the community; and
  - The provision of services in the community would be a reasonable accommodation when balanced with available resources and other similarly situated individuals with disabilities.



# Updates that Strengthen Community Services

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- Section 1557 of the Affordable Care Act (ACA) prohibits discrimination on the basis of race, color, national origin, sex, age, and disability in any health program or activity that receives Federal financial assistance.
- The new [Section 1557 Rule](#) includes a new provision on community integration that prohibits health insurance or health-related coverage benefit designs that do not provide or administer coverage in the most integrated setting appropriate to the needs of qualified individuals with disabilities, including practices that result in the serious risk of institutionalization or segregation.

# Updates that Strengthen Community Services

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- The new [Section 504 Rule](#) clarifies and strengthens civil rights protections for people with disabilities under Section 504 of the Rehabilitation Act. It complements the disability provisions in Section 1557 of the Affordable Care Act.
- The rule clarifies obligations to provide services in the most integrated setting, like receiving services in one's own home, appropriate to the needs of individuals with disabilities.

# Updates that Strengthen Community Services

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- The Section 504 Rule reflects principles established through the Supreme Court's *Olmstead* decision and other significant court decisions and clarifies that services must be provided in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
- The updated rule helps recipients better understand and comply with their obligations under Section 504 and provides more details about the characteristics of segregated settings.

# Integration Provisions in Section 504 Rule

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Prohibited actions to avoid unnecessary segregation or serious risk of segregation (non-exhaustive):

- (1) Establishing policies that limit or condition individuals with disabilities' access to most integrated setting appropriate to their needs;
- (2) Providing more favorable benefits in segregated settings than in integrated settings;
- (3) Establishing more restrictive rules and requirements for qualified individuals with disabilities in integrated settings than those in segregated settings; or
- (4) Failing to provide community-based services that results in institutionalization or serious risk of institutionalization.

# Additional Resources on Regulatory Updates

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## Section 1557

- For more information regarding the Section 1557 Final Rule visit:  
<https://www.hhs.gov/1557>

## Section 504

- For more information regarding the Section 504 Final Rule visit:  
<https://www.hhs.gov/civil-rights/for-individuals/disability/section-504-rehabilitation-act-of-1973/index.html>



# Filing an OCR Complaint



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**Office for Civil Rights**

# Olmstead Complaint Types

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## Individual Complaint

- Person seeks services/supports in the community
- Person is at-risk of losing home/community services

## Statewide Systemic Complaint

- Multiple individuals allege the same Olmstead-related allegation
- Policies or procedures favor segregated settings
- Funding is inadequate for community-based services

# How to File a Complaint

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- File in writing by mail, fax, e-mail, or via the OCR Portal (<https://ocrportal.hhs.gov/>).
- Name the health care or social service provider involved and describe the acts or omissions you believe violated civil rights laws or regulations.
- File within 180 days of when you knew the act or omission occurred, unless the alleged discrimination is ongoing. OCR may extend the 180-day period if “good cause” is shown.
- When filing a complaint, you must provide a signed consent authorizing OCR to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities when necessary.
  - When filing a complaint on behalf of another person, a signed consent or authority is required under applicable law to act for the person.

# Complaint Form



DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)  
OFFICE FOR CIVIL RIGHTS (OCR)  
**CIVIL RIGHTS AND CONSCIENCE  
COMPLAINT**

Form Approved: OMB No. 0945-0002  
Expiration Date: 12/31/2025

Please indicate one of the following:

Mr.  Ms.  Mx.

FIRST NAME	PREFERRED PRONOUN	LAST NAME

PHONE (Please include area code)	PREFERRED DAYS/TIMES TO RECEIVE PHONE CALLS

STREET ADDRESS	CITY

STATE	ZIP	E-MAIL ADDRESS

Have you previously filed a complaint with OCR?  Yes  No *If Yes, please provide OCR Transaction No:*

Are you filing this complaint for someone else?  Yes  No

*If Yes, whose civil rights or conscience and religious rights do you believe were violated?*

FIRST NAME	LAST NAME

If filing on behalf of someone else, what is your relationship to that person?

Parent/Legal Guardian  Personal Representative  Attorney  Family/ Friend  Other Advocate

OCR will generally need the signed consent of that person to proceed with an investigation unless the person is a minor or is not legally competent. If you have documentation showing that you are legally authorized to act on behalf of the person, please provide supporting documentation.



# Complaint Portal

Complaints can also be submitted through OCR's Complaint portal at [OCR Online Portal](#)

U.S. Department of Health and Human Services  
Office for Civil Rights  
Complaint Portal Assistant



## Complaint Portal Assistant

The U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR), enforces federal civil rights laws, conscience and religious freedom laws, the Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach Notification Rules, and the Patient Safety Act and Rule, which together protect your fundamental rights of nondiscrimination, conscience, religious freedom, and health information privacy at covered entities.

1. **Federal Civil Rights Laws** help to protect you from unfair treatment or discrimination because of your race, color, national origin, disability, age, or sex.
2. **Federal Conscience and Religious Freedom Laws** help to protect you from coercion, discrimination on the basis of conscience or religion, and burdens on the free exercise of religion.

If you believe that a [covered entity](#) discriminated against you or violated your (or someone else's) civil rights, conscience rights, or religious freedom rights, you may file a complaint with OCR. You may file a complaint for yourself, your organization, or for someone else.





# Olmstead Investigations

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- OCR performs a jurisdictional review of the complaint.
- OCR evaluates whether the alleged offending entity is a “covered entity” under one of the federal disability rights laws OCR enforces.
- OCR determines whether the allegations, if true, constitute illegal discrimination under the most integrated setting requirements. Is the affected individual:
  - Institutionalized, despite community-based care being appropriate?
  - At risk of institutionalization?
  - Experiencing other Olmstead issues?
- OCR may request additional information from complainant, state, or other covered entity or state agent.

# Expedited Complaint Resolution (ECR)

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- An expedited process may be available for time-sensitive complaints, or those with issues that may be resolved efficiently with state cooperation.
- OCR will evaluate complaints to determine eligibility for ECR.
  - OCR may conduct an interview with the complainant to gather information, clarify any allegations, and request documentation.
- If eligible, OCR will notify the complainant and state of the ECR option and invite participation.

# Listening Session

- Opportunity to share your experiences in seeking and obtaining home and community-based services in Maryland.
- Any questions?

UNITED STATES

Department of  
Health and Human  
Services



# Connect with Us

## Office for Civil Rights

U.S. Department of Health and Human Services



[ocrmail@hhs.gov](mailto:ocrmail@hhs.gov)

[www.hhs.gov/ocr](http://www.hhs.gov/ocr)



Voice: (800) 368-1019

TDD: (800) 537-7697



200 Independence Avenue, S.W.  
H.H.H. Building, Room 509-F  
Washington, D.C. 20201



Filing a Civil Rights Complaint  
[OCR Online Portal](#)



# THANK YOU

Avni V. Jagarlapudi

Erin Nugent

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U.S. Department of Health and Human Services

Office of Civil Rights

Olmstead Section



# SDAN Advocacy Efforts

1. Providing regular written updates to DDA administrators regarding issues of concern to self-direction
2. Participating in 30-minute meetings with DDA administrators, in combination with other advocacy groups
3. Informing members of the Maryland General Assembly and Governor's Office representatives
4. Partnering with other advocacy groups
5. Moving forward on the Self-Direction Sustainability Project - survey to go out this weekend.



# DDA and MDH Leadership say they want to hear about your problems:

Secretary of Health Laura Herrera Scott [laura.herrerascott@maryland.gov](mailto:laura.herrerascott@maryland.gov)

Deputy Secretary Marlana Hutchinson [marlana.hutchinson@maryland.gov](mailto:marlana.hutchinson@maryland.gov)

Wesley Huntemann [wesley.huntemann1@maryland.gov](mailto:wesley.huntemann1@maryland.gov)

Robert White [robert.white2@maryland.gov](mailto:robert.white2@maryland.gov)

- Have you had services reduced with assessed need present?
- Have you been pressured into accepting lesser services because you can't afford the appeal process?
- Are you having non-payment issues with the FMCS?
- PLEASE COMPLETE THE SDAN SURVEY  
<https://forms.office.com/r/TNkjXnd5dn>



# Unresolved Issues and Problem Solving



Self-Directed Advocacy Network of Maryland, Inc.

- Use your CCS and SB and Team (including Nurse and Behaviorist)
- Contact the Regional DDA Office (reviewer, director, etc)
- Statewide Coordinator DDA HQ
- Write to the Deputy Secretary
- Secretary of MDH
- Constituent Services at DDA and MDH
- Contact your legislator/Governor
- SDAN looking into complaints outside Maryland system

# QUESTIONS? THOUGHTS?

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Put your questions in the chat box or if you are unable to do that, use the “raise your hand” function.

We will answer as many questions as possible!

Reminder: Please feel free to email any private/sensitive information to [info@marylandsds.org](mailto:info@marylandsds.org)

The logo for SDAN (Self-Directed Advocacy Network of Maryland, Inc.) features the letters S, D, A, and N in a large, bold, sans-serif font. Each letter is filled with a pattern of yellow, black, and maroon colors, resembling the Maryland state flag.

**Self-Directed Advocacy Network of Maryland, Inc.**

# Thank you!



Donate

Write to us  
[info@Marylandsds.org](mailto:info@Marylandsds.org)

Volunteer

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