Olmstead Talking Points July 2026

(in response to Memo from administration from June 2026)

The history:

- People with disabilities are included in our communities. They grow up with their families and are our classmates, coworkers and neighbors. But that wasn't always the case. For decades, disabled people were placed in institutions, not allowed to attend school and cut out of family and community life.
- Laws like the Rehabilitation Act and the Americans with Disabilities Act (ADA) changed that, establishing that people with disabilities have a right to be included in their communities.
- In 1999, the Supreme Court's decision in *Olmstead v. L.C.* affirmed that under the ADA, states must provide services to people with disabilities in their own homes and communities when appropriate — and that forcing them into institutions is discriminatory.

The threat:

- Right before *Olmstead*'s 27th anniversary, the Department of Justice (DOJ) released a memo claiming that neither the *Olmstead* decision nor federal disability law actually provides a right to community integration for people with disabilities.
- This flies in the face of nearly 50 years of law and reverses decades of consistent federal support for inclusion.
- The DOJ can't itself change the law — only Congress can make and change laws, and only courts can interpret them.
- The federal government has historically played an important role in enforcing these laws. But the memo signals that the federal government is stepping back from its commitment to community integration, and it invites states to do the same.

Why community-based care makes sense — not just legally, but practically:

- Community-based care is cost-effective: roughly three people can be served in the community for the cost of institutionalizing one person, letting states help more people with the same dollars.
- Community-based care leads to better outcomes: improved health, longer lives, fewer unmet needs, and fewer hospitalizations and ER visits. Fewer hospitalizations and ER visits also mean that states save money on healthcare costs.
- People want community-based care. Research consistently shows people with disabilities prefer to stay in their homes and communities and remain as independent as possible. Families want to stay together. Parents, siblings, and spouses alike want to be able to keep their loved ones with a disability at home.
- All states now have the providers and supports in place to serve people with any type of disability in their own homes and communities.

But this memo still matters — a lot. Here's why:

- DOJ is the main enforcer of disability rights and *Olmstead*. We're already seeing them pull back from the main ways that the agency does its enforcement work — backing out of settlement agreements and dropping investigations.
- DOJ and some states will likely push courts to adopt this new interpretation, which could eventually set up a Supreme Court case that revisits the *Olmstead* decision itself.
- The memo is a signal that the DOJ and the US Department of Health and Human Services plan to try to change the long-standing regulations that require states to serve people in the community, not institutions.
- Most dangerously, it signals to states, right when many states are already looking at cutting community-based care because of reduced federal Medicaid funding, that the Rehabilitation Act and the ADA as interpreted in *Olmstead* don't require integration; this could act as a green light to states to cut community-based care even if that means people will end up in institutions.

What NOT to say:

- **Don't say the OLC opinion "overturns" or "undoes" *Olmstead*.** An OLC opinion is a Department of Justice legal interpretation — it cannot overturn a Supreme Court decision nor the intent of Congress. *Olmstead* remains a binding precedent. Saying otherwise hands critics an easy "that's not how law works" rebuttal that distracts from the real risk.
- **Don't say the ADA or Rehabilitation Act has been "gutted" or "repealed."** The statutes are unchanged. What's changed is DOJ's interpretation and posture on enforcement — which is serious, but it's an enforcement and interpretive risk, not a statutory rollback.
- **Don't conflate "DOJ won't enforce this the way it used to" with "this is no longer illegal."** Segregation and unnecessary institutionalization remain unlawful under disability rights laws and *Olmstead*. The danger is weakened federal enforcement and emboldened states testing the limits — not a change in what the law says.
- **Avoid absolutist, doomsday framing** ("Olmstead is dead," "the ADA doesn't apply anymore"). It's not just legally inaccurate — it also undercuts the credibility of everything else discussed in these talking points, sends the wrong message to states, and gives hostile members of Congress or reporters a factual foothold to dismiss the whole argument.

What to say instead:

- Frame it as DOJ **stepping back from its role as enforcer**, which shifts the burden of enforcement onto private litigants like the network of protection and advocacy agencies (P&As) or individuals. This type of enforcement is more expensive and takes a lot longer. This enforcement gap is significant and dangerous, but it is not a repeal of long-standing rights. Also emphasize it as DOJ **inviting states to make these same arguments in *Olmstead* cases in which they are involved**.

- Emphasize that this **erodes the practical mechanism** that has driven community integration progress for 25+ years, even though the legal right survives on paper.
- Keep the throughline: **the right still exists — the question is who enforces it, and how aggressively.**