



July 25, 2018

Administrator Lance Robertson
Principal Deputy Mary Lazare
Administration for Community Living
330 C St SW
Washington, DC 20201

Dear Administrator Robertson and Principal Deputy Administrator Lazare:

The undersigned organizations write to express great concern about recent comments from leadership at the Administration on Community Living and the apology that followed. We are seeking clarification on the specific comments and confirmation of ACL's commitment to community living for all people with disabilities no matter their level of need.

The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. Since its creation, CCD has advocated for expanding access to long term services and supports (LTSS) and has played a crucial role in the creation of federal programs expanding access to home and community-based services (HCBS). Community living is one of the most important threads that holds the groups of CCD together.

It is our understanding that Deputy Administrator Lazare, in her professional capacity, recently spoke at two national conferences on July 11th (the annual conference of the National Association of Councils on Developmental Disabilities and the Autism Society of America). Individuals participating at both of these conferences reported that, at various points in her remarks, Ms. Lazare stated that ACL is embracing choice "as a policy," that segregated settings can be a good option for some people with

disabilities, and that ACL supports revisiting certain federal regulations related to community integration. In an apology conveyed via Twitter later that day, Ms. Lazare stated that while ACL supports community integration, ACL “[recognizes] that *Olmstead* gives people the right to other choices.”

The apology was as concerning as the initial statements made. We are alarmed by the statements made and do not believe the statements reflect an accurate understanding of the *Olmstead* decision.

This month is the 28th Anniversary of the Americans with Disabilities Act (ADA) which is the law that provides the framework for community integration so to learn of these comments in the month we are celebrating this historic civil right is particularly disappointing.

We also believe these statements are inconsistent with the mission and long-standing policies of the Administration on Community Living.. As stated in the description of ACL’s purpose, mission, and strategic objectives on the ACL website:

“All Americans—including people with disabilities and older adults—should be able to live at home with the supports they need, participating in communities that value their contributions. To help meet these needs, the U.S. Department of Health and Human Services (HHS) created the Administration for Community Living (ACL) in 2012.”

As the leadership of ACL, you are the highest-ranking officials in the federal government charged solely with promoting and supporting community living for people with disabilities of all ages, as well as older adults. It is critical to us that ACL take a firm stand that community should be the default for people with disabilities, not institutions and other segregated settings. It is our understanding that ACL is already planning to meet with the CCD board, and we welcome this as a first step. However, we urge you also to draft and release a public statement affirming ACL’s accurate and clear commitment to the *Olmstead* decision and community living. We are also happy to be a resource moving forward concerning strategies for promoting community living for ALL people with disabilities.

Sincerely,

Allies for Independence
American Association on Health and Disability
American Association of People with Disabilities (AAPD)

American Association on Intellectual and Developmental Disabilities (AAIDD)
American Federation for the Blind
American Network of Community Options and Resources (ANCOR)
American Therapeutic Recreation Association
The Arc of the United States
Autistic Self Advocacy Network (ASAN)
Bazelon Center for Mental Health Law
Center for Public Representation
Disability Rights Education and Defense Fund
Lutheran Services of America-Disability Network
National Alliance on Mental Illness (NAMI)
National Association of State Directors of Special Education (NASDSE)
National Center for Learning Disabilities
National Council on Independent Living (NCIL)
National Disability Institute
National Down Syndrome Congress
National Health Law Program (NHeLP)
Paralyzed Veterans of America
Respectability
TASH
United Spinal Association

TAMMY DUCKWORTH
ILLINOIS

COMMITTEES

ENVIRONMENT AND PUBLIC WORKS
ENERGY AND NATURAL RESOURCES

COMMERCE, SCIENCE,
AND TRANSPORTATION

SMALL BUSINESS
AND ENTREPRENEURSHIP

United States Senate

July 17, 2018

SUITE 524
HART BUILDING
WASHINGTON, DC 20510
(202) 224-2854

SUITE 3900
KLUCZYNSKI FEDERAL BUILDING
230 S. DEARBORN STREET
CHICAGO, IL 60604
(312) 886-3506

8 SOUTH OLD STATE CAPITOL PLAZA
SPRINGFIELD, IL 62701
(217) 528-6124

VIA ELECTRONIC DELIVERY

Ms. Mary Lazare
Principal Deputy Administrator and Acting Commissioner on Disabilities
Administration for Community Living
U.S. Department of Health and Human Services
330 C ST. SW
Washington, DC 20201

Dear Principal Deputy and Acting Commissioner Lazare:

I am writing in regard to public reports that you made alarming remarks regarding the *Olmstead v. L.C.* Supreme Court decision at an event on July 12, 2018. In addition, it is my understanding that your public comments were consistent with views you expressed in a number of meetings with the disability community that you believe *Olmstead* was decided incorrectly and that you hold a preference for segregated and institutional settings for persons with disabilities.

I ask that you clarify your statements and position on these reported remarks and the *Olmstead* decision. As reported, your remarks were disturbing, create distrust and raise serious questions concerning your ability to effectively serve in your current position. The disability community has worked tirelessly to secure full inclusion, consistent with bipartisan Federal laws such as the American with Disabilities Act (ADA), and deserves an Acting Commissioner on Disabilities who shares a commitment to achieving this goal.

Though I have yet to see a full transcript of your remarks, I have read your public apology issued on social media – which indicates you may understand the gravity of this situation:

“Mary Lazare: I regret & apologize for my words at #ASAconf18. ACL believes ppl w/disabilities have the right & choice to live in the community. We work to expand those opptys & are 100% committed to that mission. We also recognize Olmstead gives people the right to other choices.”

As you should be aware, the *Olmstead* decision is the law of the land, and holds that individuals with disabilities have the right to be included in the broader community rather than forcibly segregated in institutions. The segregation, which you reportedly support, violates title II of the ADA. The Court held that public entities must provide community-based services to persons with disabilities when such services are appropriate; the affected persons do not oppose community-based treatment; and community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.

Senator Duckworth Letter to Ms. Mary Lazare
July 17, 2018
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I was also alarmed to hear that you have expressed that the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) rule should be revisited. The HCBS Settings rule requires that Medicaid-funded HCBS programs support settings that maximize opportunities to live, work and receive services in integrated, community settings where people with disabilities and older Americans can fully engage in community life. The Settings Rule has broad support from people with disabilities, older adults, their families and advocates. As a product of thousands of public comments reflecting a wide range of perspectives gathered over more than five years of a robust rulemaking process, the Settings Rule is another important step in the movement toward full integration of people with disabilities.

In addition to providing clarity on your comments and views, I would like to meet with you to discuss how you intend to uphold the Administration for Community Living's (ACL) mission to ensure that "all people, regardless of age or disability, should live independently and participate fully in their communities." I look forward to hearing how you, as a key part of ACL's leadership, will commit to uplifting integration and the principles of the *Olmstead* decision for the disability community.

Thank you in advance for handling my request in a timely manner. Please contact Josie Villanueva, at 202-224-2854 or josie_villanueva@duckworth.senate.gov to discuss further arrangements for our meeting.

Sincerely,



Tammy Duckworth
United States Senator

Congress of the United States
Washington, DC 20515

July 13, 2018

Mr. Lance Robertson
Administrator and
Assistant Secretary for Aging
Administration on Community Living
330 C St SW
Washington, DC 20201

Dear Mr. Robertson:

We are writing to request information about reported remarks that Principal Deputy Administrator Mary Lazare made this week regarding the *Olmstead* decision and the inclusion of people with disabilities within their communities.

We have received reports that in meetings this week with disability organizations, Ms. Lazare stated her belief that the *Olmstead* decision was wrongly decided and that she favored the “reinstitutionalization” and “segregation” of persons with disabilities. While we have not seen an actual transcript of her comments, Ms. Lazare has issued an apology of sorts that can be found on the Administration on Community Living’s (ACL) website:

Mary Lazare: I regret & apologize for my words at #ASAconf18. ACL believes ppl w/disabilities have the right & choice to live in the community. We work to expand those oppty's & are 100% committed to that mission. We also recognize *Olmstead* gives people the right to other choices.

The last sentence of this apology raises further concerns for us as it suggests a fundamental misunderstanding of the *Olmstead* Decision which has nothing to do with maintaining choice and everything to do with viewing the segregation of people with disabilities as a violation of Title II of the Americans with Disabilities Act.

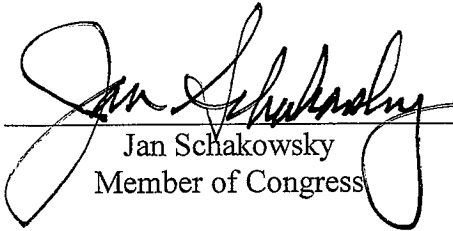
There are also reports from a different meeting, where Ms. Lazare apparently spoke the same day, that she believed CMS’s Home and Community Based Services rule should be revisited. As long time advocates of full inclusion for people with disabilities, we are disturbed by these reports.


The mission of the Administration on Community Living states that “All Americans—including people with disabilities and older adults—should be able to live at home with the supports they need, participating in communities that value their contributions.” We would like

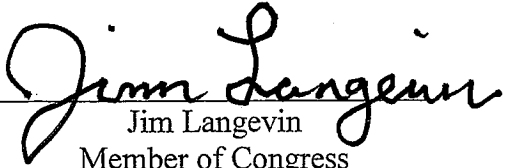
assurance that ACL leadership remains committed to the goals of integration and the principles of the *Olmstead* decision.

Given the importance of this issue, we hope to hear back from you within the week.

Sincerely,


Jan Schakowsky
Member of Congress


Gregg Harper
Member of Congress


Jim Langevin
Member of Congress

From: Administration for Community Living [mailto:acl@public.govdelivery.com]
Sent: Thursday, July 26, 2018 11:23 AM
To:
Subject: (Correction) Blog: Community Living for All: A Celebration of the Americans with Disabilities Act

Having trouble viewing this email? [View it as a Web page.](#)



News & Events

July 26, 2018

Community Living for All: A Celebration of the Americans with Disabilities Act

By ACL Administrator Lance Robertson

Earlier this month we celebrated Independence Day, commemorating the day in 1776 when the Continental Congress adopted the Declaration of Independence, which asserted:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Today we celebrate another historical moment for independence. On this day in 1990, President Bush signed the [Americans with Disabilities Act](#), which affirms those rights for people with disabilities and significantly expanded their opportunities for independence.

One of our country's most comprehensive pieces of civil rights legislation, the ADA prohibits discrimination on the basis of disability and establishes that people with disabilities have the right to the same opportunities as people without disabilities. It ensures access to public spaces, transportation, employment, and countless other things that most of us take for granted. Its fundamental purpose is the integration of people with disabilities into the mainstream of American life.

We still have work to do, but the ADA, together with legislation like the Individuals with Disabilities Education Act, has changed our world. Curb cuts are now so common that many younger people have no idea they originally were created to make sidewalks accessible for people with disabilities. Innovations and new developments in assistive technology have exponentially increased access to workplaces, entertainment, and self-sufficiency.



Special education is now a service, not a place, and children are growing up with the realization that disability is a normal part of life.

Because of these advances, and many others like them, people with and without disabilities increasingly live, work and play side by side. A generation after the ADA, community living is the expectation for all people, regardless of age or disability.

That is not only good for people with disabilities. It is good for all of us. The strongest and most vibrant communities include people of all ages and abilities, each adding their voice, perspective and talents. We all benefit when everyone can contribute to their full abilities, work and grow the economy, and actively participate in community activities.

The Administration for Community Living was created around the fundamental principle that older adults and people of all ages with disabilities should be able to live where they choose, with the people they choose and with the ability to participate fully in their communities. By funding services and supports provided by networks of community-based organizations, and with investments in research and innovation, ACL helps make this principle a reality for millions of Americans.

At ACL:

- We believe community living should always be the expectation.
- “Community” means places where people of all ages, with and without disabilities, live, grow, learn, work, are valued and create a better shared future together.
- We are committed to upholding the rights guaranteed in the Americans with Disabilities Act and reinforced through the U.S. Supreme Court’s decision in *Olmstead v. L.C.* – a decision we fully support.
- We are firmly committed to supporting the Centers for Medicare and Medicaid Services in implementing the federal home- and community-based settings rule.
- In short, at ACL, we are fully committed to making community living possible for all.

We are proud of the work that has been done, and we celebrate the gains achieved since the ADA was passed. That progress fuels our passion for our work.

As we celebrate the 28th anniversary of the Americans with Disabilities Act, we also confirm our commitment to working with people of all ages with disabilities, our grantees and other disability advocates, and partners across government, industry, academia, and communities to improve the availability and quality of the services and supports people need to live in their communities. Working together, we can fully realize the promise of the ADA.

[Read more on our ADA Anniversary Page](#)

