



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410

## **Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead***

The Department of Housing and Urban Development (HUD) is issuing this guidance to provide information about *Olmstead*, to clarify how recipients of federal financial assistance from HUD can assist state and local *Olmstead* efforts, and to encourage housing providers to support *Olmstead* implementation by increasing the integrated housing opportunities that are available for individuals with disabilities who are transitioning from, or at serious risk of entering, institutions, hospitals, nursing homes, adult care facilities, and other restrictive, segregated settings.<sup>1</sup>

Individuals with disabilities have historically faced discrimination that limited their opportunity to live independently in the community and required them to live in institutions and other segregated settings.<sup>2</sup> In 1999, the United States Supreme Court issued the landmark decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), affirming that the unjustified segregation of individuals with disabilities is a form of discrimination prohibited by Title II of the Americans with Disabilities Act (ADA). Following the *Olmstead* decision, there have been increased efforts across the country to assist individuals who are institutionalized or housed in other segregated settings to move to integrated, community-based settings. In addition, states are “rebalancing” health care delivery systems by shifting away from an overreliance on providing long-term services and supports to individuals with disabilities in institutions, hospitals, nursing homes, adult care facilities, and other restrictive, segregated settings and moving towards a greater reliance on home- and community-based services. For many states, these efforts to comply with *Olmstead* and rebalance the way long-term services and supports are provided by moving individuals out of institutions and into the community are confounded by a lack of integrated housing options for individuals with disabilities. As a result, there is a great need for affordable, integrated housing opportunities where individuals with disabilities are able to live and interact with individuals without disabilities, while receiving the health care and long-term services and supports they need.

Individuals with disabilities, like individuals without disabilities, should have choice and self-determination in housing and in the health care and related support services they receive. For this reason, HUD is committed to offering individuals with disabilities housing options that enable them to make meaningful choices about housing, health care, and long-term services and supports so they can participate fully in community life. As more states facilitate the transition of individuals with disabilities from institutional or other segregated settings into their

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<sup>1</sup> Recipients of HUD assistance include, but are not limited, to: states, units of local government, public housing agencies, nonprofit organizations, and developers of multifamily properties. Recipients do not include the individual beneficiaries of HUD-funded programs and activities.

<sup>2</sup> As used in this guidance, the term “individuals with disabilities” refers to the term as defined in federal nondiscrimination statutes.

communities, the need for meaningful choice among housing options is critical. For communities that have historically relied heavily on institutional settings and housing built exclusively or primarily for individuals with disabilities, the need for additional integrated housing options scattered throughout the community becomes more acute.

HUD programs serve as an important resource for affordable housing opportunities for individuals with disabilities, including individuals who are transitioning out of, or at serious risk of entering, institutions. HUD funds the operation, management, development, preservation, and rehabilitation of affordable housing. HUD's portfolio includes tenant-based housing vouchers, apartment buildings that serve a wide variety of individuals and families, and numerous other programs that provide permanent and transitional housing with or without supportive services to individuals with and without disabilities.

HUD is committed to providing individuals with disabilities a meaningful choice in housing and the delivery of long-term health care and support services. To that end, HUD is exploring how it can fund additional integrated housing units scattered throughout communities. HUD also continues to fund single site supportive housing that is statutorily permitted to house and provide voluntary supportive services to individuals with disabilities in some or all of the units. In addition, HUD is exploring how existing HUD-assisted housing can provide individuals with disabilities increased opportunities to exercise autonomy, independence, and self-determination in living arrangements that have the comforts and qualities of home.

HUD is taking this opportunity to advise housing providers, as they manage their portfolios of housing and develop new housing to meet the needs of individuals with disabilities, to consider the particular housing needs in their individual communities and in their state. HUD encourages public housing agencies (PHAs) and other housing providers receiving federal financial assistance from HUD to partner with state and local governments to provide additional community-based, integrated housing opportunities for individuals with disabilities transitioning out of, or at serious risk of entering, institutions or other segregated settings. This guidance is consistent with efforts across federal agencies and in many states to provide appropriate health care and related supports and services for individuals with disabilities in the most integrated setting appropriate to their needs.

As part of these efforts, HUD is working with its federal partners to align policies and promote understanding of the integration mandate of the ADA and Section 504 of the Rehabilitation Act of 1973 (Section 504). While the information provided in this guidance will be helpful to individuals with disabilities and anyone engaged in the funding, development, or operation of housing, the scope of this guidance is limited to HUD funding and programs. HUD interprets the Fair Housing Act and its Section 504 regulations. This guidance does not interpret the nondiscrimination requirements administered by other agencies. For example, Congress has delegated to the Department of Justice the authority to interpret Title II of the ADA.

## **Background on *Olmstead* and the Integration Mandate under Section 504 and the ADA**

### *Section 504*

Section 504 prohibits discrimination against individuals with disabilities by the federal government and those receiving federal financial assistance. Section 504 states:

No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service.<sup>3</sup>

Every recipient of federal financial assistance from HUD is subject to Section 504 and HUD's Section 504 implementing regulations at 24 C.F.R. part 8. This includes both public and private entities. Section 504 regulations covering HUD's own conduct are located at 24 C.F.R. part 9.

Among other things, HUD's Section 504 regulations require HUD and entities that receive federal financial assistance from HUD to administer their programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.<sup>4</sup> A "qualified" individual with disabilities is one who meets the essential eligibility requirements for participation in or receipt of benefits from that program or activity with or without reasonable accommodations.<sup>5</sup> Under Section 504, individuals with disabilities also cannot be denied the opportunity to participate in an integrated program, despite the existence of separate programs for persons with disabilities.<sup>6</sup> While different HUD programs have various program and eligibility requirements, HUD and all recipients of federal financial assistance from HUD have the obligation to administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

### *The ADA and Olmstead*

Title II of the ADA and its implementing regulations extend this integration requirement to all services, programs, and activities administered by public entities (primarily state and local government entities) regardless of whether these entities receive federal funding.<sup>7</sup> Congress specifically mandated that the ADA regulations be consistent with Section 504 coordination regulations.<sup>8</sup>

The landmark 1999 *Olmstead v. L.C.* Supreme Court decision concerned discrimination claims by two Georgia women with developmental disabilities and mental illness who were in a state psychiatric hospital, able to live in the community, but nonetheless remained hospitalized against their wishes and against the recommendations of their treating physicians. The Court's decision acknowledged that segregating individuals with disabilities in institutional settings deprives them

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<sup>3</sup> 29 U.S.C. § 794.

<sup>4</sup> 24 C.F.R. §§ 8.4(d), 9.130(d).

<sup>5</sup> 24 C.F.R. § 8.3 (defining "qualified" individuals with disabilities).

<sup>6</sup> 24 C.F.R. § 8.4(b)(3).

<sup>7</sup> 42 U.S.C. §§ 12131-12134; 28 C.F.R. § 35.130(d).

<sup>8</sup> 42 U.S.C. § 12134(b).

of the opportunity to participate in their communities, interact with individuals who do not have disabilities, and make their own day-to-day choices; it also recognized that unnecessary institutionalization stigmatizes individuals with disabilities, reinforcing misperceptions about their capacities and negative stereotypes. Thus, the promise of *Olmstead* is that individuals with disabilities be given meaningful opportunities to live, work, and receive services in integrated settings.

The Supreme Court ruled that the ADA prohibits the unjustified segregation of individuals with disabilities, which means that states and localities cannot require that individuals with disabilities reside in nursing homes, state psychiatric hospitals, or other institutional settings in order to receive necessary services if those services could reasonably be provided in integrated, community-based settings. Specifically, the Court held that public entities must provide services to individuals with disabilities in community settings rather than institutions when: 1) such services are appropriate to the needs of the individual; 2) the affected persons do not oppose community-based treatment; and 3) 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-related services from the entity.<sup>9</sup>

In reaching this conclusion, the Court relied on Congress' findings in enacting the ADA that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem."<sup>10</sup>

The *Olmstead* decision—and subsequent voluntary *Olmstead* planning and implementation, litigation by groups representing individuals with disabilities, and Department of Health and Human Services and Department of Justice enforcement efforts—are creating a dramatic shift in the way services are delivered to individuals with disabilities. While, historically, state health and long-term care systems have been heavily weighted toward using institutions, hospitals, nursing homes, adult care facilities, and other restrictive, segregated settings to provide long-term services and supports for individuals with disabilities, states have been rebalancing their systems away from institutions and steadily increasing the array of services that can be provided with Medicaid funding in home- and community-based settings.

The integration mandate of the ADA and *Olmstead* compels states to offer community-based health care services and long-term services and supports for individuals with disabilities who can live successfully in housing with access to those services and supports. In practical terms, this means that states must find housing that enables them to assist individuals with disabilities to transition out of institutions and other segregated settings and into the most integrated setting appropriate to the needs of each individual with a disability. A critical consideration in each state is the range of housing options available in the community for individuals with disabilities and whether those options are largely limited to living with other individuals with disabilities, or whether those options include substantial opportunities for individuals with disabilities to live and interact with individuals without disabilities.

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<sup>9</sup> *Olmstead*, 527 U.S. at 607.

<sup>10</sup> *Olmstead*, 527 U.S. at 600 (quoting 42 U.S.C. § 12101(a)(2) and citing 42 U.S.C. § 12101(a)(5)).

The Centers for Medicare & Medicaid Services (CMS) have supported efforts by states to rebalance their health care systems from institutional to community-based care. For example, the Money Follows the Person (MFP) program, authorized by Congress in 2005 and extended in 2010 under the Patient Protection and Affordable Care Act (ACA), authorizes CMS to offer incentives to states to assist them in rebalancing their long-term care system to a more home-and community-based orientation by, among other things, providing an enhanced federal match on services and supports for individuals who transition to community-based settings from institutional care. Individuals with disabilities have encountered a consistent barrier to using state MFP programs to transition out of institutions: a lack of accessible, affordable housing, and in particular, a lack of integrated housing options scattered throughout the community where individuals with disabilities can receive the support services they need from a service provider of their choosing.

The following questions and answers discuss HUD's efforts to support *Olmstead* enforcement and compliance and to provide further guidance on the application of the integration mandate in the administration of programs and activities that receive federal financial assistance from HUD.

## **Questions and Answers on *Olmstead* and the Integration Mandate under Section 504 and the ADA**

### **1. What does the most integrated setting mean and how does an integrated setting differ from a segregated setting?**

In its 1991 rulemaking implementing Title II of the ADA, the U.S. Department of Justice defined “the most integrated setting appropriate to the needs of qualified individuals with disabilities” as “a setting that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.”<sup>11</sup> The Department of Justice reinforced this definition in 2011 when it issued a statement on enforcement of the integration mandate of Title II of the ADA and *Olmstead* (DOJ *Olmstead* Statement)<sup>12</sup> and described the following additional characteristics of integrated settings as:

those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual's choosing; afford individuals choice in their daily life activities; and provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible.<sup>13</sup>

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<sup>11</sup> 56 Fed. Reg. 35694 (1992), codified at 28 C.F.R. pt. 35, app. B.

<sup>12</sup> *Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C. (DOJ Olmstead Statement)*, [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm). The Department of Justice is the agency charged with coordination of Section 504 and Title II of the ADA.

<sup>13</sup> *DOJ Olmstead Statement*, [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).

Within the context of housing, integrated settings enable individuals with disabilities to live like individuals without disabilities.<sup>14</sup> Integrated settings also enable individuals with disabilities to live independently with individuals without disabilities and without restrictive rules that limit their activities or impede their ability to interact with individuals without disabilities. Examples of integrated settings include scattered-site apartments providing permanent supportive housing, tenant-based rental assistance that enables individuals with disabilities to lease housing in integrated developments, and apartments for individuals with various disabilities scattered throughout public and multifamily housing developments.

By contrast, segregated settings are occupied exclusively or primarily by individuals with disabilities. Segregated settings sometimes have qualities of an institutional nature, including, but not limited to, regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, limits on individuals' ability to engage freely in community activities and manage their own activities of daily living, or daytime activities primarily with other individuals with disabilities.<sup>15</sup>

## **2. Does HUD work with state and local governments to assist in *Olmstead* planning and implementation efforts?**

Yes. HUD works with state and local governments to assist in *Olmstead*-related work. HUD encourages public housing agencies and other recipients of HUD assistance to partner with state and local governments in *Olmstead* implementation. States and local jurisdictions engaged in *Olmstead*-related litigation, *Olmstead* settlements, or documented, voluntary, affirmative *Olmstead* planning and implementation efforts are encouraged to consult local HUD grantees to discuss potential housing options in their communities. Such entities may also contact HUD for technical assistance on these issues.

## **3. How can HUD housing programs support state and local governments' efforts to comply with *Olmstead*?**

HUD is a resource for housing that may be available to individuals transitioning from, or at serious risk of entering, institutions or other segregated settings. As a result of *Olmstead* enforcement efforts by the Department of Justice, litigation by groups representing individuals with disabilities, and voluntary *Olmstead*-related planning and implementation, state and local governments are taking actions to assist individuals with disabilities to transition out of institutions and other segregated settings and into integrated housing. They are making arrangements to ensure that individuals at serious risk of institutionalization receive the necessary support services and housing so they may live in housing throughout the community. HUD's housing programs play a significant role because they offer affordable and integrated housing opportunities for such individuals.

HUD is also taking this opportunity to advise housing providers, as they develop new supportive housing, to consider the particular housing needs in individual states. HUD is committed to offering housing options for individuals with disabilities that enable them to participate fully in

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<sup>14</sup> See 24 C.F.R. § 8.4(b)(1)(iv).

<sup>15</sup> See DOJ *Olmstead* Statement, [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).

their communities. As the need for new, integrated supportive housing options becomes more acute, HUD's objective is to offer additional integrated housing opportunities so that individuals with disabilities have the choice to live in housing with individuals without disabilities while also having access to services they need and service providers they choose. For example, in response to the need for housing tied to rebalancing initiatives, in 2009, Congress appropriated funding to aid non-elderly persons with disabilities. HUD allocated a portion of this funding for Housing Choice Vouchers designated for use by those persons as they transition from an institution to the community.

HUD encourages public housing agencies and other HUD-assisted housing providers to work with state and local governments to provide integrated, affordable and accessible housing options for individuals with disabilities who are transitioning from, or at serious risk of entering, institutions or other segregated settings. For example, public housing agencies, pursuant to PIH Notice 2012-31, and other recipients of HUD assistance may offer certain preferences that will enable individuals with disabilities to transition from institutions more quickly or enable an individual at serious risk of institutionalization to remain in integrated, affordable housing in the community.

HUD encourages implementing appropriate preferences that support *Olmstead* efforts. Preferences give priority to a designated subgroup of eligible individuals. General preferences for individuals with disabilities who are transitioning from or at serious risk of entering an institutional setting are permissible. Preferences that target individuals with specific disabilities or diagnoses may be authorized in connection with remedial actions undertaken pursuant to Department of Justice enforcement, *Olmstead*-related settlements or litigation, and state and local governments' voluntary, documented affirmative *Olmstead* planning and implementation efforts.<sup>16</sup> Because they can only be authorized as remedial actions, any preference that targets individuals with specific disabilities must be reviewed and approved by the Office of General Counsel's Office of Fair Housing at HUD. PHAs must also request a waiver of HUD's program regulations precluding disability-specific preferences. HUD is working to streamline the approval process and will work with PHAs and other recipients to complete the approval process expeditiously. Public housing agencies and other recipients interested in implementing preferences to assist with *Olmstead* implementation may contact the Office of General Counsel's Office of Fair Housing in HUD headquarters for guidance regarding the types of preferences that may be offered.

In addition, a public housing agency is permitted to authorize a preference consistent with the provisions of a grant awarded under Section 811 Project Rental Assistance (PRA) even when such a preference may be for individuals with specific disabilities or diagnoses (or for individuals referred from agencies or institutions that exclusively provide services for individuals with specific disabilities or diagnoses). This is because the Section 811 PRA program is intended to support states in implementing *Olmstead* settlements, or undertaking voluntary, affirmative *Olmstead* implementation efforts and because such preferences are approved by the Office of General Counsel's Office of Fair Housing at HUD and the Assistant Secretary for Public and Indian Housing, as part of HUD's award of funds under a Section 811 PRA grant.

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<sup>16</sup> 24 C.F.R. §§ 960.206(b)(3), 982.207(b)(3).

**4. Are there instances where recipients of HUD assistance may operate housing or services limited to individuals with disabilities or individuals with specific disabilities or diagnoses?**

Yes. Some programs funded by HUD have express federal statutory authority to limit eligibility to individuals with disabilities. Examples include the Housing Opportunities for Persons With AIDS (HOPWA) program, Section 811 Supportive Housing for Persons with Disabilities, Section 202 housing developments for non-elderly persons with disabilities funded prior to 1991, certain McKinney-Vento homeless assistance programs, HUD-VASH vouchers, designated public housing under Section 7 of the Housing Act of 1937, and project-based voucher (PBV) assistance under Section 8(o)(13) of the Housing Act of 1937. Some of these programs offer housing settings occupied exclusively by individuals with disabilities, some offer housing opportunities in integrated settings, and some may offer both.

HUD's regulations implementing Section 504 restrict when participation in a federally-funded program or activity can be limited to individuals with disabilities or individuals with specific disabilities.<sup>17</sup> For further information about specific HUD programs for individuals with disabilities, consult HUD's Office of Fair Housing and Equal Opportunity or the relevant HUD program office.

**5. Does this guidance change the requirements of any existing HUD program?**

No. This guidance does not change the requirements for any existing HUD-funded or assisted housing programs, including programs that have explicit statutory authority to operate housing occupied exclusively by individuals with disabilities or individuals with specific types of disabilities or diagnoses. Housing providers may continue to develop and operate project-based or single-site supportive housing projects for individuals with disabilities in accordance with the statutory authority for individual programs. For example, the project-based voucher (PBV) program has statutory authority but is not required to commit up to 100% of PBV units in a project to individuals with disabilities. There are also HUD programs that authorize single-site permanent supportive housing projects for individuals with disabilities.

HUD encourages providers to explore various housing models and the needs of their communities. As more states and local jurisdictions assist in transitioning individuals from institutions and other segregated settings into their communities because of *Olmstead* implementation and enforcement, the need for new, integrated affordable housing will become more acute. Meaningful choice and self-determination for individuals with disabilities are paramount. In addition, states and local jurisdictions may limit referrals to housing occupied by large percentages of individuals with disabilities.

Moreover, as state and local entities increasingly provide health care and support services to individuals with disabilities in integrated, community-based housing because of *Olmstead* and efforts to rebalance the delivery of health care services, HUD encourages housing developers and providers to explore state-specific conditions to assess the continued viability of different housing models as they relate to future referrals and the future availability of Medicaid and other funding for services.

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<sup>17</sup> 24 C.F.R. §§ 8.4, 9.130.



As part of its own obligations to administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities, HUD is reviewing its housing programs to determine how it can facilitate greater housing choice by increasing integrated housing opportunities for individuals with disabilities, consistent with an individual's informed choice and right of self-determination.<sup>18</sup>

## **6. How does HUD's support for *Olmstead* enforcement and implementation efforts intersect with the goals of ending homelessness?**

HUD's support for *Olmstead* enforcement and implementation efforts aligns with the goals of ending homelessness, especially chronic homelessness, as some individuals with disabilities may be chronically homeless and at serious risk of institutionalization.<sup>19</sup> In addition, individuals with disabilities who transition out of institutions may become homeless or end up returning to institutions if not provided the housing, health care and related services and supports they need to live independently in the community. State *Olmstead* efforts are an opportunity for states to create more community-based services that support housing stability for individuals with disabilities who are experiencing homelessness.

## **7. What role does the Fair Housing Act play?**

The Fair Housing Act (FHAct) protects against discrimination on the basis of disability.<sup>20</sup> The FHAct's broad protections for individuals with disabilities include prohibiting refusals to sell or rent and discriminatory statements, prohibiting disability-related inquiries, requiring accessible features in new multifamily construction, requiring reasonable accommodations, and requiring reasonable modifications.<sup>21</sup> In addition, the FHAct prohibits actions that "restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development" based on disability.<sup>22</sup> Unlawful actions include assigning any person to a particular section of a community, neighborhood, or development, or to a particular floor of a building, based on disability.<sup>23</sup> Recipients may not subject individuals with disabilities to rules that do not apply to other residents, such as rules restricting their use of the housing or their ability to interact with individuals without disabilities.

In addition, Section 808(e)(5) of the FHAct imposes a duty on HUD to affirmatively further the purposes of the Fair Housing Act in its housing and urban development programs. Accordingly, HUD requires recipients of HUD assistance to take affirmative steps to further fair housing.

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<sup>18</sup> See 24 C.F.R. § 9.130(d).

<sup>19</sup> HUD program regulations define a disabling condition associated with chronic homelessness as a diagnosable substance abuse disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions. See 24 C.F.R. § 578.3 (Continuum of Care Interim Regulation).

<sup>20</sup> 42 U.S.C. §§ 3601-19.

<sup>21</sup> See, e.g., 42 U.S.C. § 3604(c), (f).

<sup>22</sup> 24 C.F.R. § 100.70(a).

<sup>23</sup> 24 C.F.R. § 100.70(c)(4).

The affirmatively furthering fair housing (AFFH) obligation offers an opportunity for HUD and for recipients of HUD assistance to support *Olmstead* implementation by engaging in activities that will benefit individuals transitioning from institutions or at serious risk of institutionalization by providing integrated, affordable and accessible housing options in community-based settings. As an example, within HUD-funded programs that focus on rehabilitation or new construction of housing, AFFH activities may include providing integrated, affordable housing opportunities for individuals with disabilities. Strategic planning practices would take into account other housing available in the surrounding area, the availability of accessible transportation, and other factors that may provide for greater opportunity for integration in the community. Further, housing and facilities must be accessible for individuals with disabilities in accordance with federal accessibility requirements. Consistent with HUD guidance, recipients may also develop or rehabilitate units that contain universal accessibility and visitability features that go beyond the minimum accessibility requirements established by federal laws and regulations.

For programs that include or require marketing, community-based education, and/or outreach, affirmative marketing activities include making the availability of the affordable housing units or other new development widely known throughout the market area, including to individuals transitioning from institutional care, and designing and implementing initiatives that maximize communication with and dissemination of information to individuals unlikely to have access to information or benefits, including individuals with various disabilities.

These examples represent only a sample of the ways that recipients may work towards meeting their AFFH obligation while at the same time supporting the goals of *Olmstead*. HUD encourages applicants and recipients of HUD funding to consider innovative ways to further the integration of individuals with disabilities throughout their communities.

**8. Does the integration of individuals with disabilities within HUD’s programs mean that individuals with disabilities should always be subject to the same program terms and conditions as individuals without disabilities?**

No. Providing integrated housing does not equate to always treating individuals with disabilities in the identical manner in which individuals without disabilities are treated. In fact, in some cases, it is necessary to provide individuals with disabilities with different conditions in order to comply with the Fair Housing Act, Section 504 of the Rehabilitation Act, and the ADA. These laws require reasonable accommodations/modifications in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling or the common areas of a dwelling, or to participate in or have equal access to federally funded programs and activities.<sup>24</sup>

Examples of reasonable accommodations/modifications required by Section 504 and the ADA include allocating an extra bedroom for a person with a disability when a disability-related need is established for the accommodation, *e.g.*, medical equipment or live-in aide, or approving an exception payment standard in the Housing Choice Voucher Program to ensure that a family can rent a unit that meets the needs of a family member with disabilities. In the application and

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<sup>24</sup> 42 U.S.C. § 3604(f)(3)(B)(FHAAct); 29 U.S.C. § 794 (Section 504); 42 U.S.C. § 12131 *et. seq.* (ADA).

admissions process, reasonable accommodations may include extending limited application periods and permitting flexible application procedures or locations. These are just examples and every reasonable accommodation request requires an individualized assessment on a case-by-case basis.

Furthermore, the Fair Housing Act makes it unlawful for any person to refuse to permit a person with a disability, at his or her expense, to make reasonable physical modifications to his or her dwelling or other premises when those modifications are necessary to afford him or her the full enjoyment of the premises.<sup>25</sup> When federal financial assistance is provided, Section 504 and HUD's Section 504 regulations require a housing provider to make and pay for structural changes to units and public use and common areas to accommodate a person with a disability.<sup>26</sup>

## **9. How can I find more information?**

For more information on public entities' obligations under *Olmstead*, please refer to the *Statement of the Department of Justice on Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and Olmstead v. L.C.*<sup>27</sup> Individuals may also contact the Department of Justice and refer to resources online at [www.ADA.gov](http://www.ADA.gov) or by calling the ADA Information Line at (800) 514-0301 (voice) or (800) 514-0383 (TTY).

For more information on the integration mandate under Section 504 and HUD's support of *Olmstead* enforcement and implementation efforts, please contact Jeanine Worden, Associate General Counsel for Fair Housing, [Jeanine.M.Worden@HUD.gov](mailto:Jeanine.M.Worden@HUD.gov), or Sara Pratt, Deputy Assistant Secretary for Enforcement and Programs, Office of Fair Housing and Equal Opportunity, [Sara.K.Pratt@HUD.gov](mailto:Sara.K.Pratt@HUD.gov).

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<sup>25</sup> 42 U.S.C. § 3604(f)(3)(A); 24 C.F.R. § 100.203.

<sup>26</sup> 29 U.S.C. § 794; 24 C.F.R. §§ 8.20; 8.21; 8.24; 8.33.

<sup>27</sup> [http://www.ada.gov/olmstead/q&a\\_olmstead.htm](http://www.ada.gov/olmstead/q&a_olmstead.htm).