

Transcript

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Welcome to Independent Perspective, a public affairs presentation of Western New York Independent Living.

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I'm your host, Tracy LeBlanc, Chief Community Engagement Officer at Western New York Independent Living.

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July 26th is the anniversary of the signing of the Americans with Disabilities Act, with this year celebrating 36 years since this groundbreaking legislation was enacted by then-President George H.W.

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Bush.

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This legislation was followed in 1999 by the Olmstead Act, which further solidified the rights of

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people with disabilities to receive services and support in community settings rather than being institutionalized.

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Recent memos from the U.S.

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Department of Justice.

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Office of Legal Counsel have challenged this long-held interpretation of the ADA and the Olmstead Act.

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Joining us today to talk about the history of the ADA and the Olmstead Act, as well as the recent DOJ memo, is WNYL's Chief Policy Officer, Todd Vaarwerk.

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Welcome back to the show, Todd.

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Always a pleasure to be here.

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Todd, let's start with a quick recap on what the ADA and the Olmstead Act are.

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Well, the Americans with Disabilities Act, Public Law 101336, a law

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signed on July 26, 1990, that ensured that people with disabilities had the equal rights to participate in a lot of aspects of public life, from services provided by public entities to services provided by private business,

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to equal communication when it comes to things like closed captioning or sign language interpreting, to access to paratransit services provided by local public transit agencies.

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Now, you refer to the Olmstead Act here, and the first thing I want to do is correct something.

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The Olmstead is not an act.

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Olmstead is a decision by the United States Supreme Court that upheld a section of Title II of the Americans with Disabilities Act that identified that unnecessary institutions

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institutionalization was a violation of our rights under Title II.

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Let's switch gears and talk about the recent memo from the Department of Justice regarding the interpretation of the Olmstead.

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What does that interpretation say and what would it mean for people with disabilities?

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So, on the left hand, we're going to talk a little bit about the fact that this is just an opinion put forward by the White House Offices of Legal Counsel, DOJ Office of Legal Counsel.

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And what they did was they reinterpreted the Olmstead decision

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to take away a very important part of how it's been read for the last 25 years.

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The Olmstead decision, if you were to describe it, the common element you'd hear is services must be provided in the most integrated setting.

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Now, what the memo said was that the justices didn't mean that.

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Justices weren't implying that there was a right that we had to be in the community.

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They were only deciding that institutionalizing us would be against the law and against the ADA.

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Now, again, this is 25 years

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years after the decision in the Olmstead Act and 36 years after the passing of the ADA.

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So, this is something that should concern anybody who's concerned about their freedom in the community because the federal government can now use that opinion to base other decisions on that might reduce our rights as read by the ADA.

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What action, if any, would you recommend people take to make sure that their voice is heard on the potential impact of a reinterpretation of the Olmstead?

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The thing that the federal government does these days is to pass power to the states.

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So, it's really important that our listeners look at the communities that they're in and the state that they live in and make absolutely sure that if the federal government isn't going to unilaterally protect our rights, that the state government should.

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Now, luckily, we're in New York, the Empire State, that has a long history of supporting people with disabilities.

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But at the same time, the Willowbrook decision was based on a state school in New York.

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So, it's really important that we get local and state government to follow up.

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Now, we've heard some very strong statements from the head of OPWDD, Willow Baer, and the head of OMH, and the state agencies have been very supportive of maintaining the Olmstead interpretation that they used before the memo.

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But I think I'd feel much more comfortable if we saw a law.

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So, I think that that's a thing that readers and listeners could be talking to their legislators about in terms of making absolutely

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that New York will do what the federal government isn't prepared to do at this moment.

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If someone has questions, who should they contact?

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They can contact me.

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My name is Todd, T-O-D-D.

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My last name is Vaarwerk, V as in Victor, A-A-R-W-E-R-K.

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You can call me at 716-836-0822, extension 101, or you can e-mail me at tvaarwerk@wnyil.org

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That's all the time we have for this week.

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Thank you for joining us, Todd.

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Todd, and thank you for tuning in to Independent Perspective, a public affairs presentation of Western New York Independent Living.

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Today's guest was Todd Vaarwerk, Chief Policy Officer at WNYIL, and I've been your host, Tracy LeBlanc.