

**TEMPLATE LETTER FOR CONGRESSIONAL OFFICES TO SEND TO
THE U.S. DEPARTMENT OF JUSTICE**
(to receive a copy of this template letter by email, please contact thopp@vor.net)

June 2014

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

The Honorable Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

Dear Attorney General Holder and Assistant Attorney General Samuels,

I have been contacted by constituents whose family members with intellectual and developmental disabilities (I/DD), including autism, many of whom have profound I/DD, are medically fragile or have significant behavioral challenges, have been or would be directly impacted by Justice Department forced “deinstitutionalization” actions. Their family members rely on the life-sustaining, highly specialized direct care, health care and other supports available in their specialized facility homes.

I too am concerned about the implications of these federally-financed investigations and lawsuits filed for the sole purpose of downsizing or closing Medicaid-licensed and funded Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) and other specialized facilities.

My constituents express strong objection to these lawsuits being filed without family and legal guardian notice and consent, even though the outcomes of these lawsuits could displace their family members from their homes of choice. Many of these residents have the cognitive ability of infants or young toddlers and no one would question the rights of parents to make fundamental health care decisions on behalf of a one year old.

These actions strongly appear to violate the letter and spirit of federal laws that protect the civil rights of people with I/DD and their legal representatives to reject residential choices others might make for them. The right to choice is protected by the Americans with Disabilities Act and the U.S. Supreme Court’s *Olmstead* decision interpreting it, as well as by Medicaid law and the Developmental Disabilities Act.

These families also express legitimate concerns about the ability of private providers of small settings to provide safe care and access to specialized supports, a concern even acknowledged by proponents of deinstitutionalization (*see e.g.*, Samuel R. Bagenstos, *The Past and Future of Deinstitutionalization Litigation*, 34 *Cardoza L. Rev.* 1, 21 (2012)).

I also question the rationality of lawsuits in which the plaintiff and defendant are both government entities. In such lawsuits, the Justice Department is targeting federally-licensed ICFs/IID.

In addition to responding to my concerns, please provide written confirmation that the Justice Department will provide adequate notice to families and legal guardians before taking action involving ICFs/IID or other specialized program supporting people with I/DD, and soon thereafter consult with affected families and legal guardians. Thank you for your attention to my request.

Sincerely,

cc:

Honorable Bob Goodlatte, Chair, House Judiciary Committee
Honorable Trent Franks, Chair, House Judiciary Committee, Subcommittee on Constitution & Civil Justice