

# **OCR Update and 2023 Priorities**

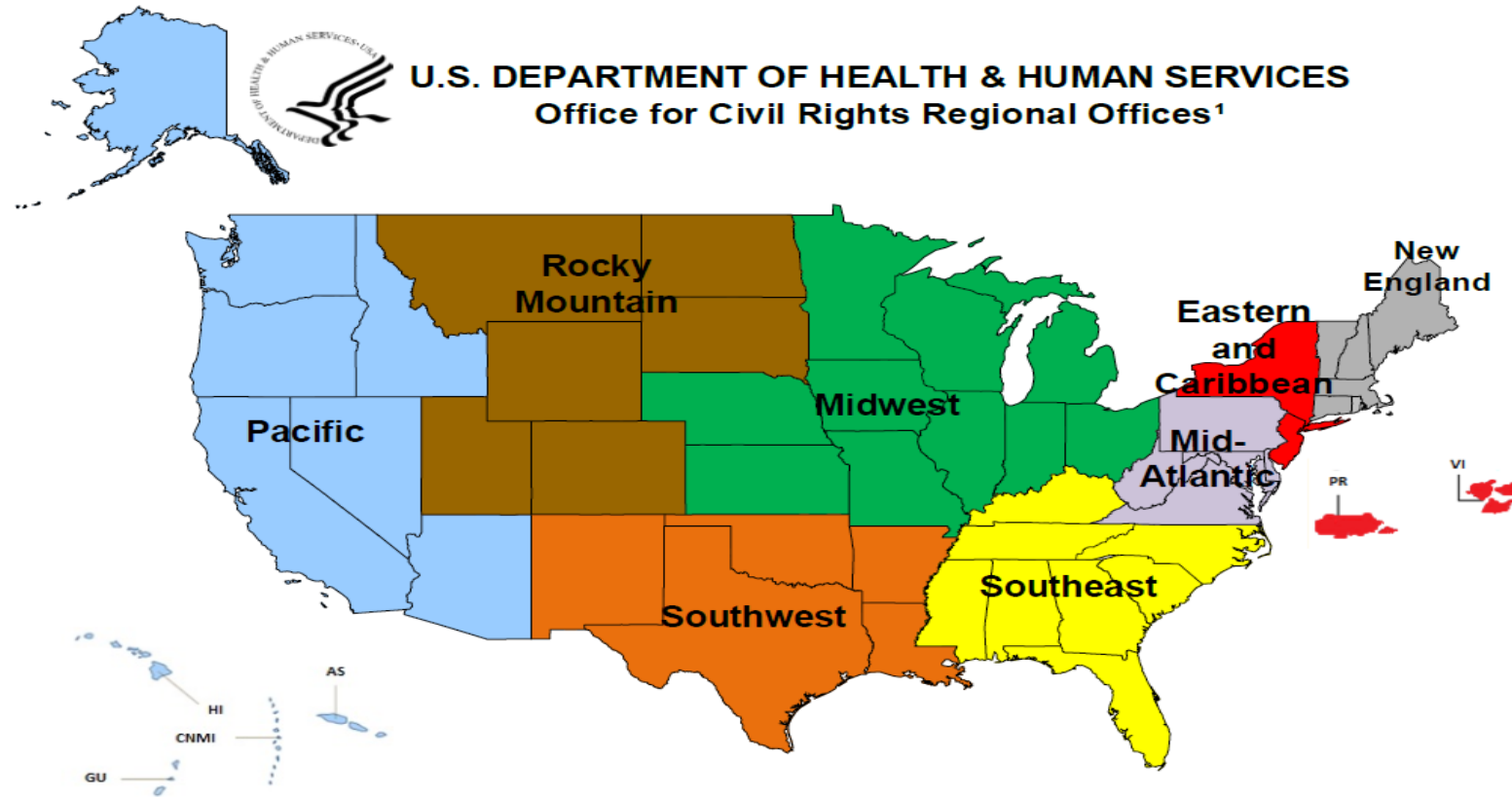
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**The National Academies of Sciences, Engineering, and Medicine  
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**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Office for Civil Rights**

# OCR's Regional Map and Offices



<sup>1</sup> U.S. Department of Health and Human Services Regional Offices

New England Region: HHS Region 1  
Eastern and Caribbean Region: HHS Region 2  
Mid-Atlantic Region: HHS Region 3  
Southeast Region: HHS Region 4

Midwest Region: HHS Region 5 and 7  
Southwest Region: HHS Region 6  
Rocky Mountain Region: HHS Region 8  
Pacific Region: HHS Region 9 and 10



# 2023 OCR Priorities

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- ✓ Advancing Health Equity
- ✓ Ensuring Individuals Know Their Rights
- ✓ Advancing Nondiscrimination by All Recipients of HHS Funds
- ✓ Protecting Privacy and Security of Health Information
- ✓ Vigorous Enforcement of Laws
- ✓ Cross-Cutting Rulemaking
  - HIPAA
  - Part 2 42 CFR (Confidentiality of Substance Use Disorder Patient Records)
  - Section 1557 of the Affordable Care Act
  - Section 504 of the Rehabilitation Act
  - Conscience and Religious Nondiscrimination (comments until March 6)
  - HHS Grants Rule

# Nondiscrimination in Health Care

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*OCR's statutory mandate and mission is to ensure compliance with our nation's civil rights, conscience, and health information privacy and security laws by investigating complaints and conducting compliance reviews, requiring corrective and remedial action, promulgating policy and regulations, and providing public education for the American people.*

- ✓ **Race, Color, National Origin:** OCR enforces federal civil rights laws to protect people of every race, color, national origin from discrimination in HHS-funded programs.
- ✓ **Disability:** OCR enforces laws and regulations that prohibit discrimination on the basis of disability in programs, services, activities and facilities funded and conducted by HHS.
- ✓ **Age:** OCR enforces laws and regulations that prohibit discrimination on the basis of age.
- ✓ **Sex:** OCR enforces laws and regulations that prohibit discrimination on the basis of sex.

# Civil Rights Update

# Civil Rights Protections – Disability

“Communications with individuals with disabilities, and companions with disabilities, are as effective as communications with individuals without disabilities.”

- **Section 504 of the Rehabilitation Act of 1973**
  - All programs and activities funded and conducted by HHS.
- **Title II of the Americans with Disabilities Act**
  - State and local government programs, services, and activities.
- **Section 1557 of the Affordable Care Act**
  - Health programs and services funded by HHS and ACA entities

# Civil Rights Protections – National Origin

Covered entities **must** take reasonable steps to provide meaningful access for limited English proficient (LEP) individuals.

- **Title VI of the Civil Rights Act of 1964**
  - All programs and activities funded by HHS.
- **Section 1557 of the Affordable Care Act**
  - Health programs and activities funded and conducted by HHS.
- **HHS Language Access Steering Committee**
  - Department wide Language Access Plan by end of 2023
  - Agency-specific plans by end of 2024

# Civil Rights Protections – *Olmstead v. L.C.*

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- This landmark Supreme Court decision provides a legal framework for Federal/State efforts to enable individuals to live in “the most integrated setting appropriate to their needs.”
- In *Olmstead*, the Court held that services in the most integrated setting must be provided when:
  - Treating professionals determine that services in the most integrated setting are appropriate;
  - The affected person does not oppose services in the most integrated setting;
  - Services in the most integrated setting can be “reasonably accommodated”
- Guidance for long term facilities
- Challenges us to ensure those currently living in LTC facilities are aware of the right to live in a more integrated setting and offered opportunities to transition to those settings.



# Substance Use Disorder: Legal Requirements

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- Individuals are protected under disability civil rights laws if they:
  - Are in an active treatment for substance use disorders, including medicated assisted treatment;
  - Are recovered or in active treatment for relapses;
  - Are erroneously regarded as an individual with a substance use disorder.
- Confidentiality of information is protected by Confidentiality of Substance Use Disorder Patient Records under 42 CFR part 2 (“Part 2”)
- OCR has partnered with other agencies, including SAMSHA and ACF, to provide resources



# Recent Civil Rights Enforcement Work: The Oaks

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- In December 2021, OCR and the U.S. Attorney's Office in the District of Massachusetts announced an agreement with The Oaks, a skilled nursing facility in Massachusetts operated by Life Care Centers of America, Inc.
- Resolves allegations that the facility denied admission to a prospective resident because he was taking an FDA-approved medication to treat substance use disorders, in violation of Section 1557, Section 504, and the Americans with Disabilities Act
- The Oaks agreed to corrective actions that include revising its admissions policy, providing training to admissions personnel on Federal civil rights laws and substance use disorders, and paying Department of Justice a civil penalty of \$5,000

# Recent Civil Rights Enforcement Work: Genesis

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- In August 2021, OCR and the U.S. Attorney's Offices for the District of Rhode Island and Massachusetts announced an agreement with twelve skilled nursing facilities in Rhode Island and Massachusetts operated by Genesis HealthCare
- The agreement resolves allegations that the facilities denied admission to prospective residents because they were taking an FDA-approved medical treatment to treat substance use disorders, in violation of the ADA, the Section 1557, and Section 504.
- Genesis agreed to take corrective actions:
  - Adopt a non-discrimination policy
  - Provide training on federal civil rights laws and substance use disorders to admissions personnel
  - Pay Department of Justice a civil penalty of \$60,000
    - \$50,000 of the penalty will be suspended and forgiven if the Genesis designated facilities comply with the terms of the agreement

# Connect with Us

## Office for Civil Rights

U.S. Department of Health and Human Services



[www.hhs.gov/ocr](http://www.hhs.gov/ocr)



<https://www.hhs.gov/ocr/list-serv/index.html>



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