

Putting *Olmstead* into Practice in North Dakota

FEEDBACK

The Olmstead Commission welcomes feedback to inform the implementation of North Dakota's Olmstead Plan. There are several ways to provide your comments and thoughts:

Online Go to: Olmstead.nd.gov

Email Send an email to: Olmstead@nd.gov

Mail Send a letter to:

Olmstead Coordinator 400 E Broadway, Suite 409 Bismarck, ND 58501

Phone Speak to a staff member, or leave your comment on voicemail:
701-328-2950

Persons with Disabilities and the *Olmstead* Mandate

An *Olmstead* Plan is a “public entity’s plan for implementing its obligation to provide individuals with disabilities opportunities to live, work, and be served in integrated settings.” It is named after a United States Supreme Court decision called “*Olmstead v. L.C.*” *Olmstead v. L.C.* was a suit to enforce Title II of the 1990 Americans with Disabilities Act (ADA), where Congress prohibited public entities from discriminating against individuals with disabilities.

The Integration Mandate

Regulations implementing ADA Title II require public entities like the State of North Dakota to provide services in the most integrated setting appropriate to the needs of qualified individuals with disabilities. Congress has explained that “the most integrated setting” means one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible.” This is known as “the integration mandate.” The ADA’s integration mandate requires public entities to provide community-based services to persons with disabilities when:

- Such services are appropriate;
- The affected individuals do not oppose community-based treatment; and
- Community-based services can be reasonably accommodated, given the resources available to the state and the needs of others who are receiving disability services from the public entity.

North Dakota drafted an *Olmstead* plan in 2002. It is time to revisit North Dakota’s progress with regard to diversion, deinstitutionalization and community integration efforts, and refine the state plan.

The *Olmstead* Plan (or “Plan”) outlines the goals and methods that will underlie North Dakota’s efforts to provide a system of services and community-based supports to people with disabilities in compliance with Title II of the ADA and the *Olmstead* decision. The Plan encapsulates state’s goals and provides its citizens with the strategies that North Dakota will use to further develop, improve, and support such a system in North Dakota.

The *Olmstead* Commission (or Commission) embodies North Dakota’s commitment to identifying and addressing barriers to providing services that support people with disabilities to live, learn, work and enjoy life in the most integrated settings alongside people without disabilities. The Commission members and other citizens contributing to the Plan ensure that the Plan remains a living document, evolving to address the concerns of North Dakotans.

Implementing the Olmstead Plan

To be effective, an Olmstead Plan must demonstrate success in transitioning individuals from segregated settings, providing more access and options for integrated settings through the provision of resources, services, and supports to divert individuals with disabilities who are at risk of institutionalization.

The Department of Justice has published guidance on the formation of state Olmstead Plans, in the June 22, 2011 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.*, accessed June 7, 2021 at https://www.ada.gov/olmstead/q&a_olmstead.htm

North Dakota's Olmstead Plan must be:

- Fact-based. The Plan must reflect an analysis of the extent to which the public entity is providing services in the most integrated setting;
- Specific. The Plan must contain concrete and reliable commitments to expand integrated opportunities, and must address funding;
- Measurable and significant. The Plan must have specific and reasonable timeframes and measurable goals for which the public entity may be held accountable; and
- Complete. The Plan must include commitments for each group of persons who are unnecessarily segregated.

It is critical that all view this initial plan as a starting point. North Dakota intends for the Olmstead Plan to be a living plan rather than a static document. For this reason, goals, measures, and strategies will need to be regularly adjusted and refined to ensure that North Dakotans with disabilities are living, learning, working, and enjoying life in the most integrated setting of their choosing.

Responsibilities of the North Dakota Olmstead Commission

- a. Research and monitor North Dakota's compliance with Title II of the ADA as upheld and clarified by the Olmstead Decision.
- b. Monitor implementation of the Olmstead Plan and update the Plan every three years.
- c. Approve and oversee the implementation of Annual Work Plans.

GUIDING PRINCIPLES

The following Guiding Principles serve as a foundation for North Dakota's Olmstead Plan:

- Self Determination and Independence

Individuals with disabilities and their families will be supported in controlling decisions about their lives on services, supports, and providers. Individuals will receive services that maximize their full potential, in the least coercive manner and in the most natural settings possible to meet their needs.

- Use of Respectful Language, Including "People First" Language

Individuals with disabilities and their families will be treated with dignity and as individuals who have their own unique strengths, wishes, and desires.

- Evidence-Based Strategies

Individuals with disabilities and their families will have access to services and supports that adhere to evidence-based practices, in order to achieve the best outcomes.

- Services Across the Life Span

North Dakotans with disabilities will have access to age-appropriate services and supports from birth to end of life.

- Inclusion

All individuals with any type of disability will have the opportunity to live, learn, work and socialize with members of their community who do not have disabilities.

- Integration

Services and supports will afford individuals with disabilities the opportunity to live as neighbors in, and to participate as active members of, their communities.

- Accountability

The systems and services that support individuals with disabilities will be accountable to North Dakota's state administration, legislature, taxpaying citizens, and most importantly, to those they serve.

GOALS

In line with the priorities set out in prior Executive Orders, and the previous iteration of the Olmstead Plan, this Plan will adopt strategic goals to focus the efforts of North Dakota towards integration.

1. North Dakotans with disabilities will have access to individualized community-based services and supports that meet their needs and preferences // North Dakotans with disabilities will receive services in the settings most appropriate to meet their needs and preferences.
2. North Dakotans with disabilities will have access to safe, affordable, accessible housing in the communities in which they choose to live.
3. North Dakotans with disabilities will have increased access to education and choice in competitive, integrated employment opportunities.
4. North Dakotans with disabilities will have access to affordable and accessible transportation statewide.
5. North Dakotans with disabilities will receive services and supports from a high-quality workforce.
6. North Dakota should diagnose and offer a full range of services and supports to children with disabilities as early as possible.
7. North Dakotans with disabilities should be engaged in the discussion of state efforts to improve the lives of North Dakotans with disabilities.
8. Individuals with disabilities will receive services and supports that reflect data-driven decision-making, improvement in the quality of services, and enhanced accountability across systems.

MEASURABLE GOALS

The measurable goals established in this Plan are indicators of progress towards the more abstract goals North Dakota has established as part of achieving the integration mandate of the Americans with Disabilities Act, with integrated settings being defined as those which “enable individuals with disabilities to interact with nondisabled persons to the fullest extent possible.”

Although the measurable goals will be used to measure progress and hold public entities accountable, they do not include all efforts in this direction. Over time, based upon lessons learned through implementation, goals will be refined and new goals may be added.

The following criteria were used for setting measurable goals:

- **Baseline:** Each measurable goal for increased integration or improvement of quality of life begins with an analysis of the extent to which people with disabilities are in the most integrated settings and have the necessary supports to meet their needs.
- **Concrete and reliable:** Each measurable goal is a concrete and reliable commitment to expand the number of individuals in the most integrated settings and necessary supports that best meet individual needs.
- **Realistic:** Each measurable goal must be realistically achievable.
- **Strategic:** Each measurable goal sets its outcomes and activities over a defined number of years.
- **Specific and reasonable timeframes:** Each measurable goal has specific and reasonable timeframes for which State agencies will be held accountable.
- **Funding:** Measurable goals will address the extent to which there is funding to support the goal including potential reallocation of funds.

TRANSITIONS TO THE COMMUNITY

North Dakotans with disabilities will be able to make informed choices about services and supports that meet their needs and preferences.

Vision statement

Supports and services should allow sufficient flexibility to support individuals' choices on where they live and how they engage in their communities.

- **Expression of Choice and Quality of Life:** Each person shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality of life.
- **Provision of Adequate Services in Community Settings:** It is the goal that all people be served in integrated community settings with adequate supports, protections, and other necessary resources which are identified as available by service coordination.

Measurable goals

Goal One: To increase the number of individuals transitioning to a more integrated setting from the LSTC

Baseline: 63, with 26 transitions from the LSTC to DD HCBS budgeted in the 2021-2023 biennial DHS budget

Annual Goals

- 12 community transitions by July 30, 2022;
- 26 total LSTC- community transitions by July 30, 2023

Goal Two: By January 1, 2022, 100% of people who experience a transition from an institutional setting will engage in a process that adheres to a Person-Centered, Informed Choice and Transition protocol.

Goal Three: By June 1, 2023 1 the State will provide information about Community-Based Services, Person Centered Planning, and Transition Services to all persons with disabilities who are in an institutional setting, who formally request or are referred for placement in an institutional setting or who are screened for a continued stay in an institutional setting.

Goal Four: By June 1, 2024, the State will demonstrate that it has provided information about Community-Based Services, Person Centered Planning, and Transition Services to all to all persons with disabilities (or their guardians, if applicable,) who are in an institutional setting, who formally request or are referred for placement in an institutional setting or who are screened for a continued stay in an institutional setting

The State will ask members to indicate in writing whether they received such information.

Goal Five: By January 1, 2023 the State will transition at least 100 institutionalized individuals, and divert at least 100 persons with disabilities who are at risk of institutionalization to HCBS.

Goal Six: By January 1, 2024 the State will transition at least 60% of the population designated in the 2020 DOJ Settlement as the Nursing Facility Target Population; and divert at least an additional 150 persons at risk of being Target Population members to Community-Based Services, so that a total of at least 250 at-risk Target Population members will have been diverted since June 1, 2021;

Goal Seven: By January 1, 2028 the State will transition at least 50% of the current population of institutionalized individuals with disabilities, and divert at least an additional 200 persons with disabilities who are at risk of institutionalization to HCBS and divert at least an additional 500 persons at risk of being Target Population members to Community-Based Services, so that a total of at least 750 at-risk Target Population members will have been diverted since June 1, 2021;

Strategies

Expand and improve transitions from facilities to the most integrated settings.

- Assess the gaps creating the problem of people with disabilities living in state-operated and contracted facilities due to lack of the resources and services needed to live in the most integrated setting.
- Address the problem of people with disabilities in jails and prisons due to lack of identification and proactive use of resources and services.
- Increase resources and navigation support for people to successfully transition from facilities to the community.
 - Improve facility support for transition through better training
- Address program eligibility challenges that prevent people in segregated settings from moving back into the community, e.g., the loss of subsidized housing and/or waiver eligibility if admitted to facilities for treatment or rehabilitation.

SERVICE AND SUPPORTS TO LIVE IN THE COMMUNITY

North Dakotans with disabilities will receive services in the settings most appropriate to meet their needs and preferences.

Vision Statement

People with disabilities will have access to a coordinated system of services that meets individual needs, supports good health, and facilitates the opportunity for a meaningful life.

Measurable Goals

GOAL ONE: By June 30, 2023, the percent of children who receive children's mental health crisis services and remain in their community will increase to ?.

Baseline:

Annual Goal: to increase the percent of children who remain in their community after a crisis:

By June 30, 2022, the percent will increase to ?

By June 30, 2023, the percent will increase to ?% or more

GOAL TWO: By June 30, 2023, the percent of adults who receive adult mental health crises services and remain in their community (e.g., home or other setting) will increase to 65% or more.

Baseline:

Annual Goal: to increase the percent of adults who remain in their community after a crisis:

By June 30, 2022, the percent will increase to ?

By June 30, 2023, the percent will increase to ?

Strategies

Expand diversion efforts

Require a comprehensive assessment of an individual's needs and interests, and offering the individuals all available options prior to admission to out-of-home and congregate care settings

- Expand outreach/inreach efforts to all identified out-of-home and congregate care settings?
- The Division of Children and Family Services (CFS) should target resources for evidence-based practices that prevent out-of-home and congregate care setting placements for children with serious emotional disorders.

- CFS and DPI should develop and implement a plan for educating school personnel about mental health resources.
- State agencies and partners will work to identify and address barriers to admissions to acute care and other community-based services that can help to prevent interface with the justice system.
- State agencies and partners will conduct an analysis of individuals with I/DD who have high levels of law enforcement contact and criminal justice system involvement.
- DOCR, DHS and DPI will evaluate and revise tools and practices to ensure that youth are appropriately assessed and receive treatment to meet their needs.

PERSON-CENTERED PLANNING

North Dakota will create and maintain a user-inclusive system to ensure the involvement of North Dakotans with disabilities in planning the services they receive and the settings most appropriate to meet their needs and preferences.

Vision statement

To foster each person's self-determination and independence, the state shall ensure the use of person-centered planning principles at each stage of the process to facilitate the identification of the person's specific interests, goals, likes and dislikes, abilities and strengths, as well as support needs.

Measurable goals.

Goal One: Person Centered Planning

Baseline: ?

Annual Goals: DHS personnel will provide Person Centered transition and diversion planning to:

- a) At least 300 individuals assessing the availability and desirability of community based services and supports versus a congregate setting, by January 1, 2022;
- b) At least an additional 300 individuals by January 1, 2023;
- c) At least an additional 700 individuals by January 1; 2024

Strategies

Ensure that all people covered by the Olmstead decision understand their right to live in the most integrated setting.

- Improve systemwide efforts to provide information, referrals and system navigation in ways that are accessible to all people.
 - a. Use a multimedia approach to outreach, including easy-to-navigate websites, social media, pamphlets and other means.
 - b. Make information accessible to all individuals, not just those with access to computers.
 - c. Create a centralized place for resource information and guidance. Start by asking all resource-providing agencies how they connect with Aging and Disability Resource Link (ADRL).
 - d. Have statewide "disability service navigators" who connect people to all the potential resources and provide basic explanations; these navigators could be positions within DHS.
- Strengthen information, referrals and support at the state agency and provider level.

- a. Implement a No Wrong Door system that is inclusive of all systems providing services to people with disabilities
- b. Implement a policy that all disability-facing state agencies and contracting organizations have a designated point person whose job is to educate consumers on their programs.
- c. DHS will assess and quantify the need for statewide expansion of behavioral health services, including but not limited to peer support, and first responder training.
- d. DHS will evaluate the use of telehealth and explore opportunities to expand it.

HOUSING

North Dakotans with disabilities will have access to safe, affordable, accessible housing in the communities in which they choose to live.

Vision statement

North Dakotans with disabilities will choose where they live.

Measurable goals

Goal One: Increase the number of North Dakotans with disabilities in the most integrated setting appropriate to their needs

Baseline: Unknown larger population plus Target Population of the DOJ settlement

Annual Goals:

- 2 subparts: Permanent supportive housing
- Increase in stock of accessible rental housing

Strategies

Create More Affordable Housing

- Increase the number of affordable housing opportunities for people with disabilities exiting segregated settings (by re-allocating existing funding.?)

Improve the Ability to Gather Information about Housing Choices

- Implement a process to gather and measure choices made by people with disabilities regarding housing.
- Once a process for capturing and measuring choice is in place, analyze the data and report annually to the Commission on progress in meeting goals.

Educate and assist persons with disabilities to identify housing options.

- Educate people with disabilities on their housing rights and responsibilities.
- Increase assistance for securing safe, affordable and accessible housing.
- Identify all available housing resources statewide.
- Address waiting lists for housing and rental assistance vouchers.
- Leveraging MFP efforts, create the administrative structure and organizational buy-in to increase access to federal housing programs and to prioritize some affordable housing capacity for people with disabilities.
- collaborate with communities across the state to encourage development or increasing availability of barrier removal programs to make existing housing more accessible.

- Explore the feasibility of applying for Section 811 Project-based Rental Assistance (PRA), per The U.S. Department of Housing and Urban Development's (HUD) October 2019 notice of funding availability.
- State agencies will promote home accessibility modifications, allowing North Dakotans participating in the Medicaid HCBS waivers to remain independent, living in their homes.

WORKFORCE DEVELOPMENT

North Dakotans with disabilities will receive services and supports from a high-quality workforce.

Vision statement

Strengthen in-home services and the direct service workforce, including strategies for increasing the quantity and quality of the direct service workforce.

Measurable Goals

Goal One:

Baseline:

Annual Goals

Strategies

Expand the workforce

Increase resources for long-term care agencies and organizations to improve in-home worker wages, benefits and training.

- Establish a statewide direct service/caregiver network that provides education, conferences, professional development, support, etc., for employees in the field and funding to support this.
- Subsidize/ provide education and training required for direct service workers.

Strengthen training and support for consumers of in-home services.

- Establish a simple process for consumers to report issues to promote provider accountability.

Strengthen training and supports for family caregivers.

- Build public/political will to implement increased QSP training and support.
- Provide automatic health insurance coverage for self-directed family caregivers (Medicaid eligibility).

DATA COLLECTION

Individuals with disabilities will receive services and supports that reflect data-driven decision-making, improvement in the quality of services, and enhanced accountability across systems.

Vision statement

The state and the Olmstead Commission will have access to information on provision of services and supports to persons with disabilities, which will inform decision-making and drive improvements in quality of services.

Measurable goals

Goal One:

Baseline:

Annual Goals

Strategies

Improve the Ability to Gather Information about Housing Choices

Implement a process to gather and measure choices made by people with disabilities regarding education, employment, transitions, community services, housing, transportation.

- Once a process for capturing and measuring choice is in place, report annually to the Commission on progress in meeting goals.
- use data reported through the electronic billing system to generate reports and conduct more advanced analysis of services provided.

Explore inter-agency data reporting and data sharing to enhance future Olmstead planning and evaluation.

- Identify and address intra-agency data sharing capabilities and limitations in order to establish comprehensive baseline information for future Olmstead planning and tracking longitudinally for plan evaluation.
- ND Olmstead Commission will explore a satisfaction survey as part of monitoring the implementation of this Olmstead Plan.

COMMUNITY ENGAGEMENT

North Dakotans with disabilities should be engaged in the discussion and formulation of state efforts to improve the lives of North Dakotans with disabilities

Vision statement

"Nothing About Us Without Us"- People with disabilities will have the opportunity to fully engage in their community and connect with others in ways that are meaningful and aligned with their personal choices and desires.

There is a need for quality, meaningful and intentional engagement. Addressing the following questions will allow for measurement of opportunities for engagement and show progress in the goals.

- How can decisions affecting people with disabilities be more transparent?
- How can people with disabilities have an impact when they participate in engagement activities?
- How can agencies improve outreach to people with disabilities? How are government agencies designing outreach efforts to reach people with disabilities?

Measurable goals

Goal One: By December 1, 2023, the (A) number of individuals with disabilities to participate in public input opportunities related to the Olmstead Plan, and (B) the number of comments received by individuals with disabilities (including comments submitted on behalf of individuals with disabilities) will increase by 20% over baseline.

Baseline: From November 20, 2020 – April 1, 2021, there were 81 individuals who participated in public input opportunities related to Olmstead Plan. The number of comments received was 24.

Annual Goals: to increase the number of individuals with disabilities participating in public input opportunities and the number of comments received:

- By December 1, 2022, the numbers will increase by 10% over baseline
- By December 1, 2023, the numbers will increase by 20% over baseline

Strategies

Encourage People with Disabilities in Providing Input on the Olmstead Plan

- The ND Olmstead Commission will encourage public participation in Olmstead Planning, and future Plan Amendments using a dedicated web page to include information on the amendment process, educational materials, and multiple opportunities to participate in public and online forums.

Analyze Communication to Ensure Messages are Accessible and Effective

- The ND Olmstead Commission will increase engagement among stakeholder groups by raising awareness of the Olmstead Plan and its purpose through social media, enhanced website user experiences, and educational tools.
- The ND Olmstead Commission will strive to communicate information using plain language

Design and Implement Community Engagement Activities to Increase Participation

- The ND Olmstead Commission will actively seek out ways to encourage members to participate in public meetings and other activities using social media and other engagement tools.

Build Statewide Awareness of North Dakota's Olmstead Plan among all North Dakotans

- The ND Olmstead Commission will convene interagency workgroups to explore barriers and address disparities to providing services and meaningful opportunities for all North Dakotans.
- The ND Olmstead Commission will convene a Community Input Group (CIG) to provide input into the effectiveness of communication and engagement activities to target audiences and provide recommendations for improvement.

EMPLOYMENT

North Dakotans with disabilities will have increased choice in competitive, integrated employment opportunities.

Vision statement

North Dakota will ensure that people with disabilities will have choices for meaningful and sustained employment in the most integrated setting.

Measurable goals

Goal One:

Baseline:

Annual Goals

Strategies

EDUCATION

North Dakotans with disabilities will have increased access to education.

Vision statement

People with disabilities will experience an inclusive education system that enables the full development of individual talents, interests, creativity, and mental and physical abilities in the most integrated educational setting.

Measurable goals

Goal One:

Baseline:

Annual Goals

Strategies

DPI will provide recommendations to early childhood programs on establishing policies that aim to prevent, severely reduce, and ultimately eliminate suspension and expulsion.

DPI will issue guidance on the use of special education funding for inclusive, least-restrictive settings for educational placements and employment.

DPI will continue working with school districts statewide to promote the adoption of strategies for supporting students with disabilities.

TRANSPORTATION

North Dakotans with disabilities will have access to affordable and accessible transportation statewide.

Vision statement

People with disabilities will have access to reliable and accessible transportation that support the other pillars of life such as employment, housing, education, health care and social connections.

Measurable goals

Goal One:

Baseline:

Annual Goals

Strategies

State agencies and transportation partners will explore expanding coverage of additional methods of transportation for individuals with disabilities to access services.

State agencies and transportation partners will explore strategies to address the shortage of transportation providers that accept Medicaid and/or participate with the Medicaid Managed Care health plans.

Consider a rate study on the cost of doing business for transportation for individuals with disabilities.

State agencies will facilitate collaboration among communities that lack any public transportation with neighboring counties/communities that do have public transportation, to explore cross-county services, and explore opportunities for regionalized transportation across the state.

Collaboration between appropriate groups to focus efforts towards educating state agency staff on vehicle modifications and the process to obtain them.