

NORTH DAKOTA OLMSTEAD PLAN

JANUARY 2024



North Dakota *Olmstead* Plan Update

UPDATE PROCESS

This document was drafted by the Olmstead Commission Subcommittee for review by the full Commission. It includes information and comments received from stakeholders and the public. Subcommittee members include Julie Horntvedt, Jake Reuter, Kayla Trzpuc, Jennifer Henderson, and Scott Burlingame. Jana Johnson facilitated the subcommittee meetings and assisted in writing the update.

The updates to this document were based on consideration of the following:

- Assessment of North Dakota’s Services and Supports for Individuals with Disabilities conducted by Technical Assistance Collaborative (January 17, 2023)
- Input from Commission meetings
- Current Commission Bylaws (May 2020)
- Current Commission Executive Order (2018)
- Original state Olmstead Plan (2002)
- Other relevant information provided by Olmstead Plan Update Subcommittee Members

PUBLIC COMMENT AND FEEDBACK

The Olmstead Commission welcomes feedback to inform the implementation of North Dakota’s Olmstead Plan. This is a draft copy and will remain open for public comment for a period of 30 days, from **January 8th – February 5th, 2024**. There are several ways to provide your comments and thoughts:

- Online: <https://www.olmstead.nd.gov/contact>
- Email: olmstead@nd.gov
- Mail: Jana Johnson, Olmstead Coordinator 4025 9th Ave S Suite A, Fargo, ND 58103
- Phone: 701-239-8984

The History of *Olmstead*

On June 22, 1999, the United States Supreme Court held in *Olmstead v. L.C.* that unjustified segregation of persons with disabilities constitutes discrimination in violation of title II of the Americans with Disabilities Act (ADA). The Court held that public entities must provide community-based services to persons with disabilities when:

1. Such services are appropriate;
2. The affected persons do not oppose community-based treatment;
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 services from the entity.

The Integration Mandate

Title II of the ADA 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 Olmstead Commission

The Olmstead Commission was created in 2001 through an executive order issued by Governor John Hoeven. The order provided the commission was to develop a plan to implement the Olmstead decision in a manner consistent with the needs and resources of the state. In 2002, the Commission held public meetings across the state to gather information on how to serve individuals with disabilities. The commission developed a working plan that included historical information regarding efforts to serve individuals in less restrictive settings and a record of state actions to comply with the Olmstead decision. Executive orders issued by the Governor in 2010 and 2018 continued the Olmstead Commission and adjusted the membership of the commission. The 2018 executive order also provided the commission may create subgroups for purposes of seeking expertise and input on community services and supports, healthcare, housing, employment, education, and transportation.

The Olmstead Plan

The Olmstead Plan (or “Plan”) supports the state’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 goals and activities of this Plan serve to further develop, improve, coordinate, and support such a system in North Dakota.

Guiding Principles

The following principles serve as foundation for North Dakota's Olmstead Plan:

1. People with disabilities have the same basic human rights, options, and control over their lives as any other citizen.
2. People with disabilities have the right to access information, education, and experiences that foster their ability to make informed choices, with respect to dignity of risk.
3. People with disabilities must be given an opportunity to access competitive, integrated employment opportunities based on individual interests.
4. People with disabilities have the right to live and be supported in the community and setting of their choice, with opportunities for productive and meaningful participation in the life of the community.
5. People with disabilities must have opportunities to develop meaningful personal relationships.
6. People with disabilities have the right to autonomy and are the experts of their own lives.

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.
- d. Issue position papers for the identification and resolution of systemic issues.
- e. Submit the Olmstead Plan update every three years to the Governor for issuance of an executive order to implement the updated Plan.

Goals and Strategies

**NOTE* The Annual Work Plan will list activities for achieving listed objectives during that year.*

- 1. Expand and improve transitions from facilities to the most integrated settings.**
 - a. Increase resources and navigation support for people to successfully transition from facilities to the community.
 - b. 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.
 - c. Address the problem of people with disabilities in jails and prisons due to lack of identification and proactive use of resources and services.
 - d. 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.
 - e. Improve facility support for transition through better training.

2. Foster self-determination and informed choices.

- a. Ensure that all people covered by the Olmstead decision understand their right to live in the most integrated setting, especially people currently living in segregated settings.
- b. Ensure that the most integrated settings are given the highest priority/funding by reducing/eliminating institutional bias in settings and practices.
- c. Strengthen individual planning and decision-making throughout the system.
 - Ensure that individuals and families understand their rights and the resources available to them. Provide information on alternatives to guardianship, including supported decision making.
 - Ensure information is provided in the method and format required to meet the needs of individuals with all types of disabilities.

3. Create and maintain person-centered practices.

- a. Improve systemwide efforts to provide information, referrals and system navigation in ways that are accessible to all people.
 - Use a multimedia approach to outreach, including easy-to-navigate websites, social media, pamphlets, and other means.
 - Make information accessible to all individuals, not just those with access to computers.
 - 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).
 - Have statewide “disability service navigators” who connect people to all potential resources and provide basic explanations. (Navigators could be positions within DHHS).
- b. Strengthen information, referrals and support at the state agency and provider level.
 - Implement a “No Wrong Door” system that is inclusive of all systems providing services to people with disabilities. (ADRL Line)
 - 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.
 - Increase awareness of services available under 1915(i) waiver.

4. Improve and expand housing options.

- a. Educate people with disabilities on their housing options.
 - Identify key consumer referral sources and develop linkages (MFP Housing database and others)
 - Educate people with disabilities on their housing rights and responsibilities.
 - Increase assistance for securing safe, affordable, accessible housing.

- Align Human Service Zones with Coordinated Entry
- b. Increase the number of landlords willing to rent to individuals with disabilities.
 - Analyze Opening Doors Landlord Risk Mitigation program to expand eligibility to non-Medicaid eligible recipients.
 - Provide incentive to private market builders to create more than the ADA/Fair Housing percentage of required accessible units in new construction.
- c. Provide rental assistance resources for people with disabilities.
 - Recommend local Public Housing Authorities prioritize individuals with disabilities for rental assistance selection.
 - Develop gap funding for application fees, 1st month's rent, deposit, utilities, and other up-front housing costs.
- d. Analyze needs for housing across the state.
 - Update statewide housing needs assessment with specific information on housing needs for people with disabilities (people with serious mental illness, transition age youth, elderly etc.)
 - Aggregate information available on the housing needs of people with disabilities.
 - Identify all available housing resources statewide, ensuring a current, complete inventory of housing opportunities across the state.
- e. Expand evidence-based, culturally responsive supportive housing.
 - Establish quality standards for all supportive housing services in the state.
 - Engage in evaluation and continuous quality improvement to aid sustainability of supportive housing services.
 - Finance additional permanent supportive housing.
- f. Support an ongoing funding source for housing development and rehabilitation.
 - Explore existing funding sources and potential new avenues of funding.
 - Support biennial allocation for Housing Incentive Fund.
 - Provide more funding for home repairs and modifications for people who own their homes.

5. Strengthen direct service workforce.

- a. Quantify the workforce shortage.
 - Develop a methodology to determine the actual projected shortage rates for case managers by territory, including rural areas.
 - Develop and implement recruitment strategies for additional case managers if it is determined that shortages exist or are projected to exist.
- b. Expand the workforce by increasing resources for long-term care agencies and organizations to advocate for resources to improve in-home worker wages, benefits, and training.

- Utilize the QSP Hub to provide education, conferences, professional development, support, etc. for direct service workers.
 - Establish funding to sustain QSP Hub
 - Continue to provide support in timeliness of agency and individual QSP enrollment process.
 - Utilize paid family caregivers.
 - Align reimbursement rates for institutions and in-home providers to sufficiently encourage the reduction or elimination of disparities in wages paid to staff providing the same or similar services in different settings.
- c. Strengthen training and support for consumers of in-home services.
- Ensure people have the opportunity to interview and decide on the agency caregivers they want.
 - Provide training and support for consumers to report abuse and neglect by caregivers in agency settings.
- d. Strengthen training and supports for direct service staff and family caregivers.
- Build public/political will to implement adequate Direct Support Professional training and support.
 - 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.
 - Provide free education and training required for direct service workers (i.e., free community college bill) or tuition forgiveness for people in social/human services who work in the caregiver field for two years.
 - Adopt policies to support the family caregiver workforce.
 - Provide automatic health insurance coverage for self-directed family caregivers (Medicaid eligibility).

6. Improve and expand transportation options.

- a. Provide information about transportation services that are available in each county/community, including their accessibility, hours, eligibility and uses.
- b. Explore and implement strategies for expanding transportation and provide resources and technical assistance.
- Address the shortage of transportation providers that accept Medicaid and/or participate with Medicaid Managed healthcare plans.
 - Expand coverage of additional methods of transportation for individuals with disabilities to access services.
 - Facilitate collaboration among communities that lack public transportation with neighboring communities who do provide the service.
 - Explore opportunities for cross-county services and regionalized transportation across the state.

- c. Educate stakeholders on process of obtaining vehicle modifications.

7. Increase employment opportunities and incomes.

- a. Increase the economic self-sufficiency of people with disabilities.
 - Eliminate subminimum wage for people with disabilities.
 - Strengthen policies to protect workers from losing needed supports when they become successful at their jobs. Support affordable health insurance for all workers to remove the disincentive to work for fear of losing benefits including Medicaid.
 - Increase the number of individuals receiving supported employment services through 1915(i).
 - Promote participation in the Statewide Customized Employment Specialist Training Project (ND CREATE).
- b. Expand opportunities to work in the most integrated settings that align with people's strengths, interests, and goals.
 - Increase the number of students with disabilities receiving pre-employment transition services.
 - Increase access to vocational technical education by people with developmental and other disabilities.
 - Increase opportunities for people with disabilities to experience a variety of life and work experiences before and after leaving school in order to identify what they want to do for work.
 - Increase supported employment services including job matching, job development, natural supports, and job advancement with a focus on valued integrated work and settings. Ensure that job matching is based on interests, abilities, and skills, and not only on jobs easiest to obtain.
 - Develop a culture of expectation that people with disabilities will work at real jobs across the spectrum including the school system, post-secondary education, behavioral health, vocational rehabilitation and workforce services.
- c. Provide individuals with Independent Living Skills training/development (being on time, social skills, personal hygiene), utilizing Centers for Independent Living to increase job success.

8. Strengthen inclusive education.

- a. Improve training for all educators, including specialties (Music, Art, Phy. Ed)
 - Provide continuing education opportunities on the value of proven instructional techniques for the inclusion of students with disabilities in classrooms, adapted physical education, and school activities.

- Educate school personnel on the value of helping all students retain their civil rights into adulthood by gaining appreciation of alternatives to guardianship, including supported decision making.
- b. Strengthen Individualized Education Programs (IEP) to include all that students need to succeed in school.
 - Educate families about resources available to assist in IEP development and their rights through Family Voices and other organizations.
 - Cultivate higher expectations for students with disabilities and their families.
 - Incorporate physical education to encourage students with disabilities to develop commitment to physical activity and healthy living.
- c. Improve transitions at every level from elementary through high school and beyond.
 - Provide information on successful navigation of recommended options at each transition point for each person.
- d. Include students with disabilities in the schools closest to their homes with necessary services and supports.
 - Establish policies that aim to prevent, severely reduce, and ultimately eliminate suspension and expulsion.
 - Issue guidance on the use of special education funding for inclusive, least-restrictive settings for educational placements.
 - Reward schools for rigorous inclusion efforts – i.e., add inclusion standards as a requirement for recognition as a School of Excellence.

9. Improve and expand access to healthcare.

- a. Empower individuals with disabilities to participate in their healthcare needs.
 - Provide education on the right to access healthcare, including information on patient rights, access to interpreter, right to refuse, etc.
- b. Increase access to specialized equipment to meet the needs of individuals with various disabilities.
 - Utilize assistive and other technologies to increase independence.
- c. Expand mental and behavioral health services.
 - Develop and implement a communications framework to ensure awareness about 988 to the public and amongst underserved populations.
 - Develop a comprehensive suicide prevention plan focused on decreasing risk factors and increasing protective factors.
 - Evaluate and revise tools and practices to ensure individuals are appropriately assessed and receive treatment to meet their needs.
 - Identify underserved populations and create strategies for promoting health equity.
- d. Recognize psychiatric diagnoses and substance use disorders as a disability, not a moral failure.

- Create a movement toward seeking voluntary treatment.
- Encourage the participation of individuals with lived experience in the design of services to meet their needs.
- Increase the types of services available.
- Support a system that allows existing agencies to coordinate their actions and work together.

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