

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James and Lorie Jensen, as parents,
Guardians and next friends of Bradley J.
Jensen, *et al.*,

Civil No. 09-1775 (DWF/FLN)

Plaintiffs

v.

Minnesota Department of Human Services,
an agency of the State of Minnesota, *et al.*,

Defendants

Independent Consultant and Monitor

**PARTIES' RESPONSES
TO COMPREHENSIVE PLAN OF ACTION**

David Ferleger
Archways Professional Building
413 Johnson Street, Suite 203
Jenkintown, PA 19046
Phone: (215) 887-0123
david@ferleger.com

Independent Consultant and
Monitor

December 20, 2013

The Court Monitor herewith provides to the Court the parties' responses to the Comprehensive Plan of Action which the Court Monitor filed with the Report to the Court: Comprehensive Plan of Action (November 27, 2013, Dkt. 254).

The Plaintiff Class response is a four page letter. The Defendants' response, dated December 13, 2013, is a two page letter accompanied by proposed changes in the Comprehensive Plan of Action.

Respectfully submitted,

/s David Ferleger
Court Monitor

O'MEARA LEER WAGNER KOHL
Attorneys at Law P.A.

December 7, 2013

Via E-Mail Only

Mr. David Ferleger
Ferleger Wealth Management, LLC
Archways Professional Building
413 Johnson Street, Suite 203
Jenkintown, PA 19046

Re: Jensen et al v. Minnesota Department of Human Services et al
Court File No: 09-CV-1775 DWF/FLN
Our File No.: 7400-001

Dear Mr. Ferleger:

On behalf of the Settlement Class, we provide the following comments and positions with regard to the Court Monitor's proposed draft Comprehensive Plan of Action ("Plan") provided to the parties.

1. There are many proposed provisions and language in the Comprehensive Plan of Action that appear to contradict the provisions of the Class Action Settlement Agreement. To be effective and consistent with the Court's Orders, the Plan should seek to implement the provisions of the Settlement Agreement rather than contradict its provisions or the spirit and intent of the Settlement Agreement. The proposed Plan has identified "tasks" that differ from the Settlement Agreement (*e.g.*, Page 9, Task 6.1 - definition of emergency does not match the settlement agreement, no reference to the use of 911 calls and chemical restraint; Tasks 7, 7.1-7.4, 8, 8.1, 8.2, 9, 9.1, 9.2, 10, 10.1, 11, 11.1, 12-15, 16-22 (abbreviated), 26, 31, 54). There are other examples throughout the Plan. We read other Plan provisions as expanding the Settlement Agreement provisions or integrating new items not referenced in the Settlement Agreement (*e.g.*, Page 3 Task 2.1, 2.2, 3.1 – 3.9, 6.3, Page 20-21, 23). We also note areas where the Plan references the use of "policies" rather than actual implementation (*e.g.*, Page 13, Task 12, 13, 14, and 15). Additional work is needed to harmonize the proposed Plan to the Court ordered provisions of the Settlement Agreement. While the Settlement Class supports the efforts of the Court Monitor to facilitate proper implementation of the Settlement Agreement, we are concerned about proposed Plan language which

dd: 952.806.0438
fax: 952.893.8338

SHAMUS P. O'MEARA
Attorney at Law

e: SPOMeara@olwklaw.com

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may operate to change the provisions of the Settlement Agreement or the spirit and intent of the Settlement Agreement.

2. The Settlement Class does not support or condone any proposed Plan provision, or interpretation of any Plan provision, that allows for the use of restraint or seclusion on people with developmental disabilities, whether as part of a “transition,” “waiver,” “exemption,” “exception,” “conditional use,” “variance,” “temporary use,” or “study period,” for any provider, or anyone else. The use of transition periods, waivers, exemptions, exceptions, etc. that provide for the continued use of restraint and seclusion directly violates the civil rights of people with developmental disabilities. The Settlement Class objects to any proposed Plan provision that seeks to allow for the continued use of restraint and seclusion. This has been the repeated, reiterated position of the Settlement Class, *see* enclosed June 4, 2013, letter to Court Monitor from Settlement Class Counsel, and proposed legislation providing for such exceptions has been questioned by the Court. *See* April 25, 2013, Amended Order [Doc. 212] (“The Court has learned there is an omnibus DHS bill moving through the state legislature. Surprisingly to this Court, and without explanation or notice to the Court as to its relationship to the Settlement Agreement, it appears that DHS has proposed a ban on all restraint and seclusion, EXCEPT for individuals with developmental disabilities.”) Such provisions are not best practice, do not protect anyone, have no positive or redeeming qualities, and would directly contradict the Settlement Agreement’s elimination of restraint and seclusion, and the spirit and intent of the Settlement Agreement. Insistence of these provisions would only facilitate the ongoing dangerous use of aversive, abusive procedures that have been eliminated by the Class Action Settlement as well as best practices that focus on Positive Behavioral Interventions and Support of individuals with developmental disabilities rather than restraining and secluding them in violation of their rights.
3. We are unable to discern the intent of the proposed Plan relative to the Administrative Procedures Act, existing statutory authorities, and the Settlement Agreement requirement to facilitate changes to Rule 40 reflecting best practices. The proposed Plan seeks to completely abolish/repeal Rule 40 (*e.g.*, Page 1, “Rule 40 is abolished under this Plan of Action”), but also states it replaces Rule 40 and that Rule 40 will remain until 5 days after June 30, 2015. The Plan’s Purpose, at page 3, states, “The Department is adopting a new Rule which shall be consistent in all respects with the requirements of this Plan of Action.” However, there is no reference or incorporation of the Rule 40 Recommendations Report. Is it the intent of the proposed Plan to completely eliminated Rule 40 and have DHS follow only the proposed Plan. What about many months of public input and work

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with regard to the Rule 40 Recommendations. We do not believe the proposed Plan sufficiently reflects the Rule 40 Report and Recommendations.

4. The proposed Plan requires DHS to adopt and enforce policies and procedures for both permitted and prohibited practices and enforce providers to comply. Does the proposed Plan intend that Court approval of the proposed Plan will eliminate any requirement for a public administrative rulemaking process. What considerations have been given to the Administrative Procedures Act with regard to the Plan's proposed use of policy enforcement in lieu of rulemaking (*e.g.*, Minn. Stat. 14.381), or the Settlement Agreement's requirement to utilize administrative rulemaking to modernize Rule 40. The publically vetted administrative law process was important to the parties in the negotiation of the Rule 40 provisions and remains importance to the Settlement Class. How will DHS enforce compliance by providers if the subject of the enforcement action is not expressly stated as a rule. (For instance, Task 3.1 directs DHS to implement policy and procedures on the use of permitted techniques rather than through rulemaking authority.)
5. What protections for people with developmental disabilities will be lost or jeopardized if Rule 40 is abolished as stated in the proposed Plan. Rule 40, for example, cross-references other statutory authorities providing protections for people with developmental disabilities. Have these statutory authorities been specifically analyzed to understand how the abolishment of Rule 40 may impact other important protections for people with developmental disabilities. The 245D legislation repeals only three sections of Rule 40 effective January 1, 2014, but we read the proposed Plan repealing Rule 40 in is entirely effective January 1, 2014. What specific comparison between 245D and Rule 40 has been undertaken as part of the vetting and drafting of the proposed Plan. Is the list of providers referenced in the Plan consistent with all licensed facilities under 245A and 245D. The Rule 40 Recommendations call for a new Rule applicable to 245A, but this appears to have been rejected by the proposed Plan.

The proposed Plan leaves many unanswered questions on issues that directly impact the lives of people with developmental disabilities and their families. We are concerned and object to ongoing use of restraint and seclusion on people with developmental disabilities. We are also concerned about the proposed Plan's removal of Rule 40 without sufficient explanation or reference to the Rule 40 Report and Recommendations or reference to its impact on corollary protections afforded people with developmental disabilities, insufficient reference to the interplay of Rule 40 and Minn. Stat. 245A and 245D, or consideration of rulemaking under the Administrative Procedures Act and its impact on enforcement by DHS regarding the proposed Plan provisions.

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Thank you.

Respectfully,

O'MEARA LEER WAGNER & KOHL, P.A.

/s/ Shamus P. O'Meara

Shamus P. O'Meara
SPO:me

Enclosures



Minnesota Department of **Human Services**

December 12, 2013

David Ferleger, Esq.
Independent Consultant and *Jensen* Court Monitor
Archways Professional Building
413 Johnson Street, Suite 203
Jenkintown, PA 19046

By E-Mail

Re: *James and Lori Jensen, et al. v. Minnesota Department of Human Services, et al.*
Court File No.: 09-CV-01775 DWF/FLN

Dear Mr. Ferleger:

I write in response to the proposed Independent Consultant and Monitor Report to the Court: Comprehensive Plan of Action ("Draft Plan"), dated November 26, 2013.

Since the Court's adoption of the *Jensen* Settlement Agreement in December 2011, the State of Minnesota and Department have made progress toward improving the care, treatment, and lives of Minnesotans with disabilities. In spite of a difficult first year of implementation, we are currently on track and are proud of the headway we have made toward the elimination and reduction of the use of restraints and seclusion, the development of our proposed Minnesota *Olmstead* Plan, current effort with respect to the modernization of Rule 40, among many other things. Despite this progress, we recognize that there is more work to be done, including achieving the letter and spirit of our promises under the Settlement Agreement.

In its August 28, 2013, Amended Order and Memorandum, the Court ordered the Department to prepare proposed plans related to the Settlement Agreement's implementation. The Department timely prepared these plans. However, as they were not accepted by the Court Monitor, the Court conferred authority to the Court Monitor to finalize the plans which were collectively presented to the parties in one Draft Plan. Our detailed response to the Draft Plan is attached, and we highlight some of our concerns below.

First, for the Draft Plan to serve as a guide and an accountability tool toward achieving compliance with the Settlement Agreement, we respectfully request that it follow the terms of the Settlement Agreement. In its current form, several components of the Draft Plan expand beyond, or otherwise differ from, the Settlement Agreement terms. While we have attempted to note and suggest alternate conforming language in our response, due to the size of the Draft Plan, we are certain that even with our suggested revisions, the Draft Plan is not completely conforming – the unwanted, unintended consequence being, forming a new standard for compliance that is not a true representation of the parties' agreement and settling intent.

Of specific concern, is the inclusion and scope of application, of Part II (Rule 40 Modernization) within the Draft Plan under the notion that the Department will be judged for compliance on the proposed evaluation criteria and tasks as if they were terms agreed to under the Settlement Agreement. While we

recognize the Court has ordered the submission of an implementation plan related to the modernization of Rule 40, we believe the respective Settlement Agreement terms as they relate to the same were satisfied with the issuance of the Rule 40 Advisory Committee's recommendations. Since the issuance of the Committee's recommendations, the Department has made additional promises outside of the Settlement Agreement, which we are working toward. We respectfully request that we not be adjudged for compliance on new criteria and tasks that were not part of the Settlement Agreement, and that the Court Monitor note this distinction and take an approach with this distinction in mind. Perhaps this could be best achieved through collective efforts under Part III (not yet incorporated) of the Draft Plan.

Second, certain criteria and tasks proposed in the Draft Plan would require the Department to act outside of its current legal authority, making such action impossible or unlawful. This occurs most prominently in Part II of the Draft Plan. We have highlighted these areas in our enclosed response.

Third, while we understand the Court's interest in closely monitoring future efforts related to the modernization of Rule 40 and the implementation of Minnesota's *Olmstead* Plan, we are concerned with the associated monitoring cost and duplication of efforts when there are already systems and accountability measures in place. For instance, formal administrative rule-making related to the modernization of Rule 40, pursuant to the Minnesota Administrative Procedure Act, is actively underway. With respect to our proposed Minnesota's *Olmstead* Plan, it has its own governing structure and accountability measures incorporated into the plan. For these reasons, and taking into account the comments contained in our enclosed response, we respectfully request that the Court Monitor take an approach, with respect to Part II and the Part III of the Draft Plan, which allows the rule-making process to proceed and the respective governing structures to perform their roles, in a manner that avoids duplication, contravention, and any unnecessary additional expense. An approach which adds value to the implementation of Minnesota's *Olmstead* Plan is an excellent place for our collective efforts to merge and focus.

We are appreciative of the attention and effort expended by the Court Monitor and his consultants in preparing the Draft Plan. We are also hopeful that, through the use of a refined implementation plan, we will succeed in satisfying the spirit and intent of the parties' December 2011 Settlement Agreement.

Please do not hesitate to contact me with any questions or to discuss.

Sincerely,



Anne M. Barry
Deputy Commissioner

Cc: Shamus O'Meara, Attorney for Plaintiffs
Colleen Wieck, Executive Director for the Governor's Council on Developmental Disabilities
Roberta Opheim, Ombudsman for Mental Health and Developmental Disabilities
Steven Alpert, Assistant Attorney General
Scott Ikeda, Assistant Attorney General
Gregory Gray, DHS Chief Compliance Officer
Amy Kaldor Akbay, DHS Chief General Counsel

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
I. INTRODUCTION				
On December 5, 2011, the United States District Court for the District of Minnesota adopted the Settlement Agreement in this class action. The settlement was intended to bring significant improvements to the care and treatment of individuals with developmental and other disabilities in the State of Minnesota. Significant progress has been made; however, as the Court has found, the pace of progress has been slow, there have been delays in implementation and there have been significant conceded non-compliance. The Court initially responded by appointing a court monitor in 2012. Subsequently, the Court and Court Monitor coaxcoaxed DHS several times to adopt an implementation plan and then, by Order of August 28, 2013, the Court required submission of an implementation plan for the Court's review and approval. This plan covers the elements of the Settlement Agreement, with the exception of the Olmstead Plan and the Rule 40 modernization plan; these are addressed in separate plans. In response to the Court Monitor's June 11, 2013 Status Report on Compliance, the Department of Human Services announced it would repurpose MSHS-Cambridge and, to comply with the Settlement Agreement, would close the Facility in favor of community services. Therefore, this plan also covers the closure of the MSHS-Cambridge Facility and its replacement by small community homes with accompanying protections, services and supports.		Accepted with edits	Edited for clarity.	On December 5, 2011, the United States District Court for the District of Minnesota adopted the Settlement Agreement in this class action. The settlement was intended to bring significant improvements to the care and treatment of individuals with developmental and other disabilities disabilities in the State of Minnesota. Significant progress has been made; however, as the Court has found, the pace of progress has been slow, there have been delays in implementation and there has been significant conceded non-compliance. The Court initially responded by appointing a court monitor in 2012. Subsequently, the Court and Court Monitor coaxcoaxed DHS several times to adopt an implementation plan and then, by Order of August 28, 2013, the Court required submission of an implementation plan for the Court's review and approval. This plan covers the elements of the Settlement Agreement, with the exception of the Olmstead Plan and the Rule 40 modernization plan; these are addressed in separate plans. In response to the Court Monitor's June 11, 2013 Status Report on Compliance, the Department of Human Services announced it would repurpose MSHS-Cambridge and, to comply with the Settlement Agreement, would close the Facility in favor of community services. Therefore, this plan also covers the closure of the MSHS-Cambridge Facility and its replacement by small community homes with accompanying protections, services and supports.
II. PURPOSES				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
This Comprehensive Plan of Action: Part 1 has several purposes: a) to secure for residents of MSHS-Cambridge, and the community homes and programs which will succeed it, the benefits of the Settlement Agreement applicable to "Facility" residents, b) to provide protections, services and supports in accordance with professional best practices, c) to provide for the expansion of community services to allow for the provision of assessment, triage, and care coordination to assure persons with developmental disabilities receive the appropriate level of care at the right time, in the right place, and in the most integrated setting in accordance with the U.S. Supreme Court decision in <i>Olmstead v. L.C.</i> , 527 U.S. 582 (1999), d) to establish long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system, and e) to provide both internal and external monitoring of compliance.		Accepted with edits	Edited for consistency with the JSA and to acknowledge the Court's August 28, 2013 Order.	This Comprehensive Plan of Action is meant to meet the requirements of the Jensen Settlement Agreement and the Court's August 28, 2013 Order. Part 1 has several purposes:- a) to secure for residents of MSHS-Cambridge, and the community homes and programs which will succeed it, the benefits of the Settlement Agreement applicable to "Facility" residents,- b) to provide protections, services and supports in accordance with professional best practices for Facility residents,- c) to provide for the expansion of community services to allow for the provision of assessment, triage, and care coordination to assure persons with developmental disabilities receive the appropriate level of care at the right time, in the right place, and in the most integrated setting in accordance with the U.S. Supreme Court decision in <i>Olmstead v. L.C.</i> , 527 U.S. 582 (1999),- d) to establish long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system, and e) to provide both internal and external monitoring of compliance.
This Comprehensive Plan of Action has three parts. This is Part I. Part II, a separate Behavioral Support Plan to modernize what was called "Rule 40." Part III is the state-wide all-disability Olmstead Plan. See Order of August 28, 2013. All three plans should be implemented together.		Accepted with edits	Typo	This Comprehensive Comprehensive Plan of Action has three parts. This is Part I. Part II, a separate document, is a Positive Behavioral Support Plan to modernize what was called "Rule 40." Part III is the state-wide all-disability Olmstead Plan. See Order of August 28, 2013. All three plans should be considered, interpreted and implemented together.
III. SCOPE AND MANAGEMENT				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
This Implementation Plan encompasses the provisions of the Settlement Agreement, adopted by the Court on December 5, 2011, which address a) the replacement of the Minnesota Extended Treatment Option (METO) by the smaller MSHS-Cambridge program on the same grounds as METO, and b) the closure of MSHS-Cambridge as a facility for long-term care and the move of residents to permanent homes in the community, and c) the development of sufficient small community homes for temporary short-term care to address crisis needs of individuals with developmental disabilities who have been institutionalized. In addition, and as importantly, this Implementation Plan encompasses changes which affect the entire Department of Human Services system of protections, services and community services. These changes will promote development, support and monitoring of appropriate community services for people with disabilities. The Department of Human Services will establish a Jensen Implementation Team ("Team") comprised of a minimum of four full-time professional staff, with clerical assistance, which will be responsible for management and coordination of this Part I and also Part II of this Plan. The Team will have a designated leader skilled in leadership in the field of developmental disabilities, and will have sufficient resources to fulfill its responsibilities. The Team will also be responsible for the Department of Human Services elements of the Olmstead Plan.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	This Implementation Comprehensive Plan of Action encompasses the provisions of the Jensen Settlement Agreement, adopted by the Court on December 5, 2011, which address a) the replacement of the Minnesota Extended Treatment Option (METO) by the smaller MSHS-Cambridge program on the same grounds as METO, and successor facilities. b) the closure of MSHS-Cambridge as a facility for long-term care and the move of its residents to permanent homes in the community, and c) the development of sufficient small community homes for temporary short-term care to address crisis needs of individuals with developmental disabilities disabilities who, in the past, would have been institutionalized. In addition, and as importantly, this Implementation Plan encompasses changes which affect the entire Department of Human Services system of protections, services and supports with regard to provision of community services. These changes will promote development, support and monitoring of appropriate community services for people with disabilities. The Department of Human Services will establish a Jensen Implementation Team ("Team") comprised of a minimum of four full-time professional staff, with clerical assistance, which will be responsible for management and coordination of this Part I and also Part II of this Plan. The Team will have a designated leader skilled in leadership in the field of developmental disabilities, and will have sufficient resources to fulfill its responsibilities. The Team will also be responsible for the Department of Human Services elements of the Olmstead Plan.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
The Jensen Implementation Team will be responsible -- and will be held responsible -- for candid, independent and complete reporting, including on compliance and non-compliance. The Team shall be responsible for monthly updates to the Court and Court Monitor, and for promptly gathering and providing all information requested by the Court Monitor. The monthly updates will be provided a week in advance in draft to the Court Monitor, Plaintiffs Class Counsel, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Minnesota Governor's Council on Developmental Disabilities. The work of the Jensen Implementation Team shall not abridge the ability of Department employees freely and privately with the Court Monitor. The fundamental imperatives of this Plan are embodied in the Evaluation Criteria which are highlighted and indicated by whole arabic numbers. The Evaluation Criteria are intended to be permanent. The Evaluation Criteria are accompanied by Required Tasks (arabic decimal numbers) which describe actions to be taken to fulfill the Evaluation Criteria. Status of compliance will be reported by DHS monthly. The Required Tasks may be modified for good cause shown by the Court.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Jensen Implementation Team will be responsible --- and will be held responsible --- for candid, independent and complete reporting, including on compliance and non-compliance. The Team shall be responsible for monthly updates to the Court and Court Monitor, and for promptly gathering and providing all information requested by the Court Monitor. The monthly updates will be provided a week in advance in draft to the Court Monitor, Plaintiffs Class Counsel, the Ombudsman for Mental Health and Developmental Disabilities, and the Executive Director of the Minnesota Governor's Council on Developmental Disabilities. The work of the Jensen Implementation Team shall not abridge the ability of Department employees and others to communicate freely and privately with the Court Monitor. The fundamental imperatives of this Plan are embodied in the Evaluation Criteria which are highlighted and indicated by whole arabic numbers. The Evaluation Criteria are intended to be permanent. The Evaluation Criteria are in most cases accompanied by Required Tasks (arabic decimal numbers) which describe actions to be taken to fulfill the Evaluation Criteria. Status of compliance with the Required Tasks will be reported by DHS monthly. The Required Tasks may be modified for good cause shown in accordance with the procedure established by the Court.
IV. REPORTING, REVIEWS, OVERSIGHT AND QUALITY ASSURANCE		Accepted in part with edits	Typographical error	IV. REPORTING, REVIEWS, OVERSIGHT AND QUALITY <u>QUALITY</u> ASSURANCE

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
DHS will create and implement a plan that will effectively monitor compliance with the Court's orders, including but not limited to the Evaluation Criteria, and provide for quality assurance, after the conclusion of the Court's active judicial oversight. Also, that plan will provide for maintenance of the Court's active judicial oversight. Also, that plan will provide for maintenance of a system of therapeutic follow-up with persons served to provide a safety network, as needed, to assure appropriate transition planning, planning, protections, services and supports, and help prevent re-institutionalization and other transfers to more restrictive settings. A proposed Plan shall be submitted to the Court in 20 months for review and approval. At least 60 days before submission of the proposed Plan, DHS shall provide a draft to the Court Monitor, Plaintiffs Class Counsel, the Ombudsman for Mental Health and Developmental Disabilities and the Executive Director of the Governor's Council on Developmental Disabilities.		Accepted with edits	Edited for consistency with the JSA.	DHS The Facility will create and implement a plan that will effectively monitor compliance with the <u>JSA</u> and any <u>JSA related</u> Court's orders, including but not limited to the established and set Evaluation Criteria, and provide for quality assurance, after the conclusion of the Court's active judicial oversight. Also, that plan will provide for maintenance of a system of therapeutic follow-up with persons served to provide a safety network, as needed, to assure appropriate transition planning, protections, services and supports, and help prevent re-institutionalization and other transfers to more restrictive settings. A proposed Plan shall be submitted to the Court in 20 months for review and approval. At least 60 days before submission of the proposed Plan, DHS shall provide a draft to the Court Monitor, Plaintiffs Class Counsel, the Ombudsman for Mental Health and Developmental Disabilities and the Executive Director of the Governor's Council on Developmental Disabilities.
CONDITIONS, CARE AND PROGRAMS				
Settlement Agreement Section IV. METO CLOSURE		Accepted		
REQUIRED TASKS				
1. METO closed as required by the Jensen Settlement Agreement.		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1	DHS Response	Rationale	Proposed Changes
2. METO successors comply with Olmstead v. L.C. METO successors are and will remain licensed to serve people with developmental disabilities. Cambridge and successor facilities will eliminate unnecessary segregation of individuals with developmental disabilities. Each individual's program will include multiple opportunities on an ongoing basis to engage with: (1) typical community citizens with a valued status in (2) regular community settings, (3) participating in valued activities (4) in recognizable roles. These community activities will be highly individualized, drawn from the person centered planning processes, and developed alongside the individual.	Accepted with edits	Edited for consistency with the JSA.	2. METO successors comply with Olmstead v. L.C. METO successors are and will remain licensed to serve people with developmental disabilities. Cambridge and successor facilities will eliminate unnecessary segregation of individuals with developmental disabilities. Each individual's program will include multiple opportunities on an ongoing basis to engage with: (1) typical community citizens with a valued status in (2) regular community settings, (3) participating in valued activities (4) in recognizable roles. These community activities will be highly individualized, drawn from the person centered planning processes, and developed alongside the individual. Any successor to METO shall: (1) comply with the U.S. Supreme Court decision in Olmstead v. L.C., 527 U.S. 582 (1999); (2) utilize person centered planning principles and positive behavioral supports consistent with applicable best practices including, but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org) (February, 2007); (3) be licensed to serve people with developmental disabilities; (4) only serve "Minnesotans who have developmental Disabilities and exhibit severe behaviors which present a risk to public safety" pursuant to METO's original statutory charge under Minn. Stat. § 252.025, subd. 7; and (5) notify parents and guardians of residents, at least annually, of their opportunity to comment in writing, by e-mail, and in person, on the operation of the Facility.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
2.1	Each individual's planning processes will specifically address increasing integration within the following life areas: (1) home; (2) work; (3) transportation; (4) lifelong learning and education; (5) healthcare and healthy living; and (6) community and civic engagement.	Not Accepted	The requirements here are outside the scope of the JSA, do not take into account true person centered processes and is prescriptive beyond what is or may be important to the individual.	Each individual's planning processes will specifically address increasing integration within the following life areas: (1) home; (2) work; (3) transportation; (4) lifelong learning and education; (5) healthcare and healthy living; and (6) community and civic engagement.
2.2	Cambridge and successor facilities apply strong efforts to individualize and personalize the interior setting of the home. This includes exerting maximal feasible efforts to assist individuals to personalize and individualize their individualize their bedrooms and common areas, to make each common area aesthetically pleasing, and to actively support individuals to bring, care for, acquire, and display personal possessions, photographs and important personal items, centered plans, this may include the program purchasing such items which will build towards transition to a new place to live.	Not Accepted	The requirements here are outside the scope of the JSA, do not take into account true person centered processes and is prescriptive beyond what is or may be important to the individual. The Facility does have a process to provide for what each individual desires.	Cambridge and successor facilities apply strong efforts to individualize and personalize the interior setting of the home. This includes exerting maximal feasible efforts to assist individuals to personalize and individualize their bedrooms and common areas, to make each common area aesthetically pleasing, and to actively support individuals to bring, care for, acquire, and display personal possessions, photographs and important personal items. Consistent with person-centered plans, this may include the program purchasing such items which will build towards transition to a new place to live.
3. METO successors utilize person centered planning principles and positive behavioral supports consistent with applicable best practices including, but not limited to, the Assoc. of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports .		Accepted with edits	Edited for consistency with the JSA.	3. METO successors <u>The Facility will</u> utilize person centered planning principles and positive behavioral supports consistent with applicable best practices including, but not limited to, the Assoc. <u>Association</u> of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports .

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
3.1	Each individual will be involved to the greatest extent possible in the development of a person-centered profile centering on learning from the person and those who know the person best about their history, preferences, life experiences, interests, talents, and capacities among other areas within 20 days of admission. This profile will be updated and revised as more is learned over time on a monthly basis, or more frequently. A revised person centered profile format will be developed from the current Person Centered Description to include the above areas and to include a method to note when revisions and additons are made, by whom, and in what venue (e.g. , a person centered meeting of the support team, interview, an individual update by a staff member, a phone call).	Accepted with edits	The language is modified for consistency with the JSA.	Each individual will be involved to the greatest extent possible in the development of a person-centered profile centering on learning from the person and those who know the person best about their history, preferences, life experiences, interests, talents, and capacities among other areas within 20 days of admission. This profile will be updated and revised as more is learned over time on a monthly basis, or more frequently. A revised person-centered profile format will be developed from the current Person Centered Description to include the above areas and to include a method to note when revisions and additions are made, by whom, and in what venue (e.g., a person centered meeting of the support team, interview, an individual update by a staff member, a phone call). <u>The Facility will utilize person centered planning principles and positive behavioral supports consistent with applicable best practices.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
3.2	From the understanding in the person-centered profile, a person centered plan will be completed which includes the development of a shared vision of the future to work towards within 30 days of admission, as well as agreements and shared objectives and commitments to work towards.	Accepted with edits	The language proposed by the Court Monitor is inconsistent with current statute and rule (245B and 245D) and does not align with the JSA.	From the understanding in the person-centered profile, a person-centered plan will be completed which includes the development of a shared vision of the future to work towards within 30 days of admission, as well as agreements and shared objectives and commitments to work towards. <u>The Facility will utilize person centered planning principles and positive behavioral supports consistent with applicable best practices</u>
3.3	The person centered plan will directly inform the development of the individualized program plans. Individual program plans will build on the strengths and interests of the individual, and moving towards increasing relationships, roles, and community integration in these areas of life.	Accepted with edits	The proposed text takes into account current statute and rule (245B and 245D).	The person centered plan will directly inform the development of the individualized program plans Individual Program Plan (IPP or successor Plans) and associated objectives. The IPP individual program plans will build on the strengths and interests of the individual, and moving towards increasing have clear association with the relationships, roles, and community integration in these areas of life activities important to the individual.
3.4	The person centered plan will directly inform the development of a Positive Behavior Support Plan. Life direction, talents, and interests will be capitalized on in any planned intervention. Each behavior support plan will include teaching strategies to increase competencies and build on the strengths of the person.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The person-centered plan will directly inform the development of a Positive Behavior Support Plan. Life direction, talents, and interests will be capitalized on in any planned intervention. Each behavior support plan will include teaching strategies to increase competencies and build on the strengths of the person.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
3.5	Each behavior support plan will be unique to each individual. The use of token economies, and contingent reinforcement will be used sparingly and only when weighed again the potential risks to the person's image and competencies in terms of exercising personal autonomy.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each behavior support plan will be unique to each individual. The use of token economies, and contingent reinforcement will be used sparingly and only when weighed again the potential risks to the person's image and competencies in terms of exercising personal autonomy.---
3.6	Each behavior support plan will include a summary of the person's history and life experiences, the difficulties and problems the person is experiencing, past strategies and results, and a comprehensive functional behavioral analysis, from which strategies are derived.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each behavior support plan will include a summary of the person's history and life experiences, the difficulties and problems the person is experiencing, past strategies and results, and a comprehensive functional behavioral analysis, from which strategies are derived.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
3.7	Each Functional Behavioral Analysis will include a: a. Review of records for psychological, health and medical factors which may influence behaviors b. Assessment of the person’s likes and dislikes (events/activities/objects/people) c. Interviews with individual, caregivers and team members for their hypotheses regarding the causes of the behavior; d. Systematic observation of the occurrence of the identified behavior for an accurate definition/description of the frequency, duration and intensity; e. Review of the history of the behavior and previous interventions, if available; f. Systematic observation and analysis of the events that immediately precede each instance of the identified behavior; g. Systematic observation and analysis of the consequences following the identified behavior; h. Analysis of functions that these behaviors serve for the person; i. Analysis of the settings in which the behavior occurs most/least frequently. Factors to consider include the physical setting, the social setting, the activities occurring and available, degree of participation and interest, the nature of teaching, schedule, routines, the interactions between the individual and others, degree of choice and control, the amount and quality of social interaction, etc. j. Synthesis and formulation of all the above information to formulate a hypothesis regarding the underlying causes and/or function of the targeted behavior.	Accepted with edits	This requirement is outside the scope of the JSA and does not take into account current and future standards for positive behavior supports.	Each Functional Behavioral Analysis will include a: a. Review of records for psychological, health and medical factors which may influence behaviors b. Assessment of the person’s likes and dislikes (events/activities/objects/people) c. Interviews with individual, caregivers and team members for their hypotheses regarding the causes of the behavior; d. Systematic observation of the occurrence of the identified behavior for an accurate definition/description of the frequency, duration and intensity; e. Review of the history of the behavior and previous interventions, if available; <u>The individual will have a Positive Behavior Support (PBS) plan that is directly informed by the person-centered profile/description/plan that follows current standards.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
3.8	Each positive behavior support plan will include: 1. Understanding how and what the individual is communicating; 2. Understanding the impact of others’ presence, voice, tone, words, actions and gestures; 3. Supporting the individual in communicating choices and wishes; 4. Supporting workers to change their behavior when it has a detrimental impact; 5. Temporarily avoiding situations which are too difficult or too uncomfortable for the person; 6. Enabling the individual to exercise as much control and decision making as possible over day-to-day routines; 7. Assisting the individual to increase control over life activities and environment; 8. Teaching the person coping, communication and emotional self-regulation skills; 9. Anticipating situations that will be challenging, and assisting the individual to cope or calm; 10. Offering an abundance of positive activities, physical exercise, and relaxation, and 11. Modifying the environment to remove stressors (such as noise, light, etc.).	Not Accepted	Addressed in 3.7 above.	Each positive behavior support plan will include:- 1. Understanding how and what the individual is communicating; 2. Understanding the impact of others’ presence, voice, tone, words, actions and gestures; 3. Supporting the individual in communicating choices and wishes; 4. Supporting workers to change their behavior when it has a detrimental impact; 5. Temporarily avoiding situations which are too difficult or too uncomfortable for the person; 6. Enabling the individual to exercise as much control and decision making as possible over day-to-day routines; 7. Assisting the individual to increase control over life activities and environment; 8. Teaching the person coping, communication and emotional self-regulation skills; 9. Anticipating situations that will be challenging, and assisting the individual to cope or calm; 10. Offering an abundance of positive activities, physical exercise, and relaxation, and 11. Modifying the environment to remove stressors (such as noise, light, etc.).-
3.9	The format used for Positive Behavioral Support Plans will be revised to include each of the above areas, and will be used consistently.	Not Accepted	Addressed in 3.7 above.	The format used for Positive Behavioral Support Plans will be revised to include each of the above areas, and will be used consistently.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
4. METO successors serve only "Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety."		Accepted with edits below.		
4.1	All referrals for admission will be reviewed by the admissions coordinator to assure that they are persons with a Developmental Disability and meet the criteria of exhibiting severe behaviors and present a risk to public safety taking into account court ordered admissions.	Accepted with edits	Clarifying the wording used in the item and to align with the JSA.	All referrals for admission will be reviewed by the admissions coordinator to assure that they are persons with a Developmental Disability and meet the criteria of exhibiting severe behaviors and present a risk to public safety taking into account court ordered admissions. All admission will be reviewed by the admissions coordinator to assure that meet the criteria set forth in the JSA which is to serve "Minnesotans who have developmental disabilities and exhibit severe behaviors which present a risk to public safety" taking into account any court ordered admissions.
5. METO successors notify parents and guardians of residents, at least annually, of their opportunity to comment in writing, by e-mail, and in person, on the operation of the Facility.		Accepted with edits below.		
5.1	Initiate annual written survey process to all families, guardians and stakeholders whose individual of interest was served within the past year which solicits input on the operation of successor facilities. Each survey will include notification that comments on Facility operations may be offered in person or by mail or telephone by contacting Facility director or designee.	Not Accepted	Language does not comport with the JSA. Modified to align with JSA.	Initiate annual written survey process to all families, guardians and stakeholders whose individual of interest was served within the past year which solicits input on the operation of successor facilities. Each survey will include notification that comments on Facility operations may be offered in person or by mail or telephone by contacting Facility director or designee. <u>Notify parents and guardians of residents, at least annually, of their opportunity to comment in writing, by e-mail, and in person, on the operation of the Facility.</u>
5.2	Aggregate data will be collected from survey responses received from each survey process. Program staff will develop an action plan to outline changes which will be made as a result of survey data, and implement those changes.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Aggregate data will be collected from survey responses received from each survey process. Program staff will develop an action plan to outline changes which will be made as a result of survey data, and implement those changes.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
SETTLEMENT AGREEMENT SECTION V.A. PROHIBITED TECHNIQUES – RESTRAINT				
REQUIRED TASKS				
6. The State/DHS immediately and permanently discontinues all the prohibited restraints and techniques.		Accepted with edits	For purposes of this Plan, the text needs to be edited to be in compliance with the scope of Section III F of the JSA.	6. The State/DHS immediately and permanently discontinues all the prohibited restraints and techniques <u>at the Facility</u> .
6.1	DHS will issue a memorandum to all staff confirming the Department's commitment to provide services and supports which are consistent with best practices including: 1) Providing individuals with a safe and therapeutic environment which includes positive behavioral supports and training on behavioral alternatives; 2) Recognizing that restraints are not a therapeutic intervention; 3) An immediate prohibition on prone restraint, mechanical restraint, seclusion and time out; 4) DHS's goal towards immediate reduction and eventual elimination of restraint use whenever possible; and 5) Restraint use is permitted only in an emergency when imminent risk of physical harm is present and only after less intrusive measures have failed to abate such risk.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS will issue a memorandum to all staff confirming the Department's commitment to provide services and supports which are consistent with best practices including: 1) Providing individuals with a safe and therapeutic environment which includes positive behavioral supports and training on behavioral alternatives; 2) Recognizing that restraints are not a therapeutic intervention; 3) An immediate prohibition on prone restraint, mechanical restraints, seclusion and time out; 4) DHS's goal towards immediate reduction and eventual elimination of restraint use whenever possible; and 5) Restraint use is permitted only in accordance with the in an emergency when imminent risk of physical harm is present and only after less intrusive measures have failed to abate such risk.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
6.2	The State/DHS shall remove "mechanical restraint," "prone restraint," "prone hold" and all other prohibited techniques from all current forms and protocols, e.g., METO #31032/DHS# 3654.	Accepted with edits	Edited for consistency with the JSA.	The State/DHS shall remove "mechanical restraint," "prone restraint," "prone hold" and all other prohibited techniques from all current METO and its successor facilities forms and protocols, e.g., METO #31032/The Facility# 3654. <u>The Facility shall immediately and permanently discontinue the use of mechanical restraint (including metal law enforcement-type handcuffs and leg hobbles, cable tie cuffs, PlastiCuffs, FlexiCuffs, soft cuffs, posey cuffs, and any. other mechanical means to restrain), manual restraint, prone restraint, chemical restraint, seclusion, and the use of painful techniques to induce changes in behavior through punishment of residents with developmental disabilities.</u>
6.3	DHS policy(s) on Emergency Interventions shall minimally include: 1) The type of emergency interventions permitted and prohibited; 2) The protocol for administering emergency interventions; 3) The authorization and supervision needed for each emergency intervention; 4) The medical monitoring required during and after each restraint; 5) The review requirements of each emergency intervention (administrative, internal and external); 6) The data collection and aggregate data review of restrictive intervention usage. DHS policy shall separate and clearly delineate "therapeutic interventions" from "emergency restraint/interventions." Current policy/procedures shall be revised to comply with these requirements.	Accepted with edits	Edited for consistency with the JSA.	<u>The Facilities' policy(s) on Emergency Interventions shall follow the JSA</u> minimally include: 1) The type of emergency interventions permitted and prohibited; 2) The protocol for administering emergency interventions; 3) The authorization and supervision needed for each emergency intervention; 4) The medical monitoring required during and after each restraint; 5) The review requirements of each emergency intervention (administrative, internal and external); 6) The data collection and aggregate data review of restrictive intervention usage. DHS policy shall separate and clearly delineate "therapeutic interventions" from "emergency restraint/interventions." Current policy/procedures shall be revised to comply with these requirements.
6.4	All staff members have received competency-based training on the policy/procedures identified immediately above.	Accepted with edits	Edited for consistency with the JSA.	All Facility staff <u>providing or directly supervising services</u> members have received competency-based training on the <u>emergency use of restraint</u> policy/procedures for identified immediately above.
6.5	Competency-based training on the policy/procedures identified above has been incorporated into both orientation and annual training curricula.	Accepted with edits	Edited for consistency with the JSA.	Competency-based training on the policy/procedures identified above has been incorporated into both orientation and annual training curricula <u>as appropriate.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
7. The State/DHS has not used any of the prohibited restraints and techniques.		Accepted with edits	Edited for consistency with the JSA.	7. The Facility shall not used any of the JSA prohibited restraints and techniques.
7.1	Staff will specify on Restraint Form which emergency technique was employed, verifying that a prohibited technique was not used.	Accepted with edits	We propose text to allow for revision of forms as needed.	Facility Staff will specify on Restraint the currently designated reporting Form which emergency technique was employed, verifying that a prohibited technique was not used.
7.2	The supervisor will review each restraint with staff by the end of his/her shift, verifying that: 1) The threat of imminent harm warranted the emergency intervention, 2) The intervention was an approved technique and no suspicion exists that a prohibited technique was used; and 3) When applicable, what immediate corrective measures/administrative actions need to be taken.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The supervisor will review each restraint with staff by the end of his/her shift, verifying that: 1) The threat of imminent harm warranted the emergency intervention, 2) The intervention was an approved technique and no suspicion exists that a prohibited technique was used; and 3) When applicable, what immediate corrective measures/administrative actions need to be taken.
7.3	Any/all use of prohibited techniques, e.g., prone restraints, mechanical restraints, seclusion, timeout, etc., will be investigated as potential allegations of abuse. Staff are required to immediately report any suspected use of prohibited restraints/techniques to their supervisor.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Any/all use of prohibited techniques, e.g., prone restraints, mechanical restraints, seclusion, timeout, etc., will be investigated as potential allegations of abuse. Staff are required to immediately report any suspected use of prohibited restraints/techniques to their supervisor.
7.4	Reporting and review forms/procedures are revised, and utilized, to incorporate the above 7.1, 7.2 and 7.3.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Reporting and review forms/procedures are revised, and utilized, to incorporate the above 7.1, 7.2 and 7.3.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
8. Medical restraint, and psychotropic/ neuroleptic medication have not been administered to residents for punishment, in lieu of habilitation, training, behavior support plans, for staff convenience or as behavior modification.		Accepted with edits	See below	
8.1 DHS policy shall specifically forbid the use of restrictive interventions, including medical restraints and/or psychotropic/neuroleptic medication for: the purposes of punishment; in lieu of habilitation, training, or behavior support plans; or as a behavior modification.		Accepted with edits	Edited for consistency with the JSA.	DHS policy shall specifically forbid the use of restrictive interventions; including medical restraints and/or psychotropic/neuroleptic medication for: the purposes of punishment; in lieu of habilitation, training, or behavior support plans; for staff convenience; or as a behavior modification. <u>Medical restraint, and psychotropic and/or neuroleptic medications shall not be administered to residents for punishment, in lieu of adequate and appropriate habilitation, skills training and behavior supports plans, for the convenience of staff and/or as a form of behavior modification.</u>
8.2 DHS policy will specify medication management protocols consistent with best practices in the support and treatment of individuals with cognitive and/or mental health disabilities.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS policy will specify medication management protocols consistent with best practices in the support and treatment of individuals with cognitive and/or mental health disabilities.
SETTLEMENT AGREEMENT SECTION V. B. PROHIBITED TECHNIQUES - POLICY		Accepted with edits	See below	
REQUIRED TASKS				
9. Restraints are used only in an emergency.		Accepted with edits	Edited for consistency with the JSA.	<u>Manual Restraint is used only in an emergency at the Facility</u>
9.1 Staff will clearly document, on the restraint form, the circumstances leading up to the restraint and what imminent risk of harm precipitated the application of the restraint. This shall include what antecedent behaviors were present, what de-escalation and intervention strategies were employed and their outcomes.		Accepted with edits	Edited to provide clarity.	The Facility S staff will clearly document, on the <u>currently designated reporting restraint</u> form, the circumstances leading up to the restraint and what imminent risk of harm precipitated the application of the restraint. This shall include what antecedent behaviors were present, what de-escalation and intervention strategies were employed and their outcomes.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
9.2	In the event a restraint was used in the absence of imminent risk of harm, staff will be immediately retrained on DHS's policies addressing the "Therapeutic Interventions and Emergency Use of Personal Safety Techniques" policy with such retraining being entered into their personnel file.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	In the event a restraint was used in the absence of imminent risk of harm, staff will be immediately retrained on DHS's policies addressing the "Therapeutic Interventions and Emergency Use of Personal Safety Techniques" policy with such retraining being entered into their personnel file.
10. The Policy (Settlement Agreement Att. A, as it may be revised) was followed in each instance of manual or mechanical restraint		Accepted with edits	Edited to provide clarity and correctness.	10. The Policy (Settlement Agreement Att. A, as it may be revised) was followed in each instance of <u>the emergency use of manual or mechanical</u> restraint <u>at the Facility</u> .
10.1	As part of its data management processes, the Facility will collect, review and analyze information related to staff's adherence to restraint policy.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	As part of its data management processes, The Facility will collect, review and analyze information related to staff's adherence to restraint policy.
11. There were no instances of prone restraint, chemical restraint, seclusion or time out. [Seclusion: evaluated under Sec. V.C. Chemical restraint: evaluated under Sec. V.D.]		Accepted with edits	Edited to provide clarity and correctness.	11. There were no instances of prone restraint, chemical restraint, seclusion or time out <u>at the Facility</u> . [Seclusion: evaluated under Sec. V.C. Chemical restraint: evaluated under Sec. V.D.]
11.1	Facility policy shall clearly identify prone restraint, chemical restraint, seclusion and timeout as "prohibited."	Accepted		
SETTLEMENT AGREEMENT SECTION V.C. PROHIBITED TECHNIQUES – SECLUSION AND TIME OUT		Accepted		
REQUIRED TASKS				
12. There were zero instances of the use of Seclusion.		Accepted with edits	Edited to provide consistency with the JSA.	12. There were zero instances of the use of Seclusion <u>at the Facility</u> .
12.1	Facility policy shall specify that the use of seclusion is prohibited.	Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
13. There were zero instances of the use of Room Time Out from Positive Reinforcement.		Accepted with edits	Edited to provide consistency with the JSA.	13. There were zero instances of the use of Room Time Out from Positive Reinforcement <u>at the Facility</u> .
13.1	Facility policy shall specify that the use of time out from positive reinforcement is prohibited.	Accepted		
SETTLEMENT AGREEMENT SECTION V.D. PROHIBITED TECHNIQUES – CHEMICAL RESTRAINT		Accepted		
REQUIRED TASKS				
14. There were zero instances of drug / medication use to manage resident behavior OR to restrain freedom of movement.		Accepted with edits	Edited to provide consistency with the JSA.	14. There were zero instances of drug / medication use to manage resident behavior OR to restrain freedom of movement <u>at the Facility</u> .
14.1	Facility policy specifies that the use of drugs/medications to manage resident behavior OR to restrain one's freedom of movement are prohibited.	Accepted with edits	Edited to provide consistency with the JSA.	Facility policy specifies that the use of drugs/medications to manage resident behavior OR <u>or to restrain</u> restrict <u>the resident's</u> one's freedom of movement are <u>is</u> prohibited, <u>unless it is standard treatment or dosage for the resident's condition.</u>
15. There were zero instances of PRN orders (standing orders) of drug/ medication used to manage behavior or restrict freedom of movement.		Accepted with edits	Edited to provide consistency with the JSA.	15. There were zero instances of PRN orders (standing orders) of drug/ medication used to manage behavior or restrict freedom of movement. <u>Orders or prescriptions for the administration of medications to be used as a restriction to manage the resident's behavior or restrict the resident's freedom of movement shall not be written as a standing order or on an as-needed basis (PRN).</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
15.1	Facility policy specifies that PRN/standing order medications are prohibited from being used to manage resident behavior or restrict one's freedom of movement.	Accepted with edits	Edited to provide consistency with the JSA.	Facility policy specifies that PRN/standing order medications are prohibited from being used to manage resident behavior or restrict one's freedom of movement, <u>unless it is standard treatment or dosage for the resident's condition.</u>
15.2	DHS policy shall include a clearly outlined protocol for the approved use and follow-up review of PRN medications for the treatment of psychiatric and medical conditions.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS policy shall include a clearly outlined protocol for the approved use and follow-up review of PRN medications for the treatment of psychiatric and medical conditions.
SETTLEMENT AGREEMENT SECTION V.E. PROHIBITED TECHNIQUES – 3rd PARTY EXPERT		Accepted with modification	The 3rd party Expert is not being used as the Facility is utilizing the Medical Officer Review option in the JSA.	Remove EC 16 to EC22 since this is no longer an option that is used.
REQUIRED TASKS				
16. There is a protocol to contact a qualified Third Party Expert.		Accepted with modification	The 3rd party Expert is not being used as the Facility is utilizing the Medical Officer Review option in the JSA.	Remove EC 16 to EC22 since this is no longer an option that is used.
16.1	Facility policy stipulates that a Third Party Expert will be consulted within 30 minutes of the emergency's onset.	See EC 16	See EC 16	See EC 16

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes	
17. There is a list of at least 5 Experts pre-approved by Plaintiffs & Defendants. In the absence of this list, the DHS Medical or designee shall be contacted.	17 to 22.1	See EC 16	See EC 16	See EC 16	
		See EC 16	See EC 16	See EC 16	
		See EC 16	See EC 16	See EC 16	
		See EC 16	See EC 16	See EC 16	
		See EC 16	See EC 16	See EC 16	
		See EC 16	See EC 16	See EC 16	
18. DHS has paid the Experts for the consultations.		See EC 16	See EC 16	See EC 16	
19. A listed Expert been contacted in each instance of emergency use of restraint.		See EC 16	See EC 16	See EC 16	
20. Each consultation occurred no later than 30 minutes after		See EC 16	See EC 16	See EC 16	
21. Each use of restraint was an “emergency.”		See EC 16	See EC 16	See EC 16	
22. The consultation with the Expert was to obtain professional assistance to abate the emergency condition, including the use of positive behavioral supports techniques, safety techniques, and other best practices. If the Expert was not available, see V.F. below.		See EC 16	See EC 16	See EC 16	
17 to 22.1	On the restraint form, staff will identify the Third Party or other expert and will document all recommendations given by the consultant, techniques, and the efficacy and outcomes of such interventions. When reviewing the restraint form 24 hrs post-restraint, Designated Coordinator will verify that staff contacted the medical officer within 30 minutes of the emergency's onset.	See EC 16	See EC 16	See EC 16	
SETTLEMENT AGREEMENT SECTION V.F. PROHIBITED TECHNIQUES – MEDICAL OFFICER REVIEW		Accepted			
REQUIRED TASKS					

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
23. The responsible supervisor contacted the DHS medical officer on call not later than 30 minutes after the emergency restraint use began.		Accepted with edits	Typo error	23. The responsible supervisor contacted the DHS Medical Officer on call no later than 30 minutes after the emergency restraint use began.
	23.1 On the Restraint Form, the supervisor will document both the date/time that the emergency restraint began and the date/time s/he contacted the designated medical officer.	Accepted with edits	Edited for consistency with the JSA.	On the Restraint <u>currently designated reporting</u> form, the supervisor will document both the date/time that the emergency restraint began and the date/time s/he contacted the designated medical officer.
24. The medical officer assessed the situation, suggested strategies for de-escalating the situation, and approved of or discontinued the restraint.		Accepted with edits	Text is changed for clarity.	24. The medical officer assessed the situation, suggested strategies for de-escalating the situation, and approved of or discontinued the <u>emergency</u> use of restraint.
24.1 The supervisor will document on the restraint form and in the resident's record, the medical officer's de-escalation strategies, the outcome of those strategies used and whether approval was needed and/or given for continued restraint use.		Accepted with edits	Text is changed for clarity.	The supervisor will document on the restraint form and in the resident's record, the medical officer's de-escalation strategies, the outcome of those strategies used and whether approval was needed and/or given for continued <u>emergency</u> restraint use.
	25. The consultation with the medical officer was documented in the resident's medical record.	Accepted		
25.1 When conducting his/her post-restraint review, the Designated Coordinator will verify that the supervisor contacted the medical officer within 30 minutes of the emergency restraint and documented the details in the resident's medical record.		Accepted with edits	Text is changed for clarity.	When conducting his/her post-restraint review, the Designated Coordinator <u>a designated staff</u> will verify that the supervisor contacted the medical officer within 30 minutes of the <u>initiation of the</u> emergency restraint and documented the details in the resident's medical record.
	SETTLEMENT AGREEMENT SECTION V.G. PROHIBITED TECHNIQUES – ZERO TOLERANCE FOR ABUSE AND NEGLECT	Accepted with edits		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
REQUIRED TASKS				
26. All allegations were fully investigated and conclusions were reached. Individuals conducting investigations will not have a direct or indirect line of supervision over the alleged perpetrators. Individuals conducting investigations, interviews and/or writing investigative reports will receive competency-based training in best practices for conducting abuse/neglect investigations involving individuals with cognitive and/or mental health disabilities and interviewing.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement and Minnesota law, and to reflect the actual processes.D96	26. All allegations were fully investigated and conclusions were reached. Individuals conducting investigations will not have a direct or indirect line of supervision over the alleged perpetrators. Individuals conducting investigation, interviews and/or writing investigative reports will receive competency-based training in best practices for conducting abuse/neglect investigations involving individuals with cognitive and/or mental health disabilities and interviewing. <u>The Facility will comply with the reporting requirements relating to abuse of vulnerable persons pursuant to Minn. Stat. § 626.557.</u>
26.1	Individuals having responsibility for investigative duties will receive 8 hours of continuing education or in-service training each year specific to investigative practices. (cross reference MN Stat 626.557 Subd. 9c)	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Individuals having responsibility for investigative duties will receive 8 hours of continuing education or in-service training each year specific to investigative practices. (cross reference MN Stat 626.557 Subd. 9c)

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
26.2	Each investigation will undergo a quality review by a peer or supervisor who has, at minimum been trained in the requirements set forth in this Implementation Plan.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each investigation will undergo a quality review by a peer or supervisor who has, at minimum been trained in the requirements set forth in this Implementation Plan.
26.3	The Department will maintain an electronic data management system, to track all information relevant to abuse/neglect investigations. This data management system will minimally include: 1) Incident date; 2) Report date; 3) Incident location; 4) Provider; 5) Allegation type; 6) Alleged victim; 7) Alleged perpetrator(s); 8) Injuries sustained; 9) Assigned investigator; 10) Date investigative report is completed; 11) Substantiation status; 12) Systemic issues identified and the corrective measures taken to resolve such issue; 13) Whether or not the case was referred to the county attorney; and 14) Whether or not charges were filed; and 15) Outcome of charges.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will maintain an electronic data management system, to track all information relevant to abuse/neglect investigations. This data management system will minimally include: 1) Incident date; 2) Report date; 3) Incident location; 4) Provider; 5) Allegation type; 6) Alleged victim; 7) Alleged perpetrator(s); 8) Injuries sustained; 9) Assigned investigator; 10) Date investigative report is completed; 11) Substantiation status; 10) disciplinary action taken; 12) Systemic issues identified and the corrective measures taken to resolve such issue; 13) Whether or not the case was referred to the county attorney; and 14) Whether or not charges were filed; and 15) Outcome of charges.
27. All staff members found to have committed abuse or neglect were disciplined pursuant to DHS policies and collective bargaining agreement, if applicable.		Accepted with edits	Text is edited for consistency with the JSA.	27. All <u>Any Facility</u> staff members found to have committed abuse or neglect were disciplined pursuant to DHS policies and collective bargaining agreement, if applicable.
27.1	Discipline occurs when abuse or neglect is substantiated.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Discipline occurs when abuse or neglect is substantiated.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
27.2	The Department's electronic data management system will maintain data relative to substantiated cases of abuse/neglect and the disciplinary actions taken in each instance.	Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	The Department's electronic data management system will maintain data relative to substantiated cases of abuse/neglect and the disciplinary actions taken in each instance.
28. Where appropriate, the State referred matters of suspected abuse or neglect to the county attorney for criminal prosecution.		Accepted		
28.1	Effective no later than July 1, 2014, all allegations will be submitted to the common entry point to determine whether or not the case will be referred to the county attorney for criminal prosecution. (NOTE: MN Statute 626.557 Subd. 9/Vulnerable Adults Act indicates that this process is to begin July 1, 2014).	Accepted with edits	The Facility has to comply with current State Law that requires notification of the Common Entry Point for any allegations of abuse or neglect. The Facility cannot delay this obligation for a future date as indicated in EC 28.1. The Lead Agency is responsible for investigating and prosecutorial referrals, not the Facility.	Effective no later than July 1, 2014, all All Facility allegations of abuse or neglect will be submitted to the common entry point <u>in accordance with State law.</u> to determine whether or not the case will be referred to the county attorney for criminal prosecution. (NOTE: MN Statute 626.557 Subd. 9/Vulnerable Adults Act indicates that this process is to begin July 1, 2014).
SETTLEMENT AGREEMENT SECTION VI.A. RESTRAINT REPORTING & MGMT – FORM 31032		Accepted		
REQUIRED TASKS				
29.	Form 31032 (or its successor) was fully completed whenever use was made of manual or mechanical restraint.	Accepted with edits	Use of mechanical restraints are not allowed.	29. Form 31032 (or its successor) was fully completed whenever use was made of manual or mechanical restraint.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
29.1	When reviewing the restraint form 24 hrs post-restraint, the Designated Coordinator will verify that Form 31032 was completed timely, accurately and in its entirety.	Accepted with edits	Edited to allow for future versions and numbering of the currently designated reporting form.	When reviewing the restraint form 24 hrs hours or 1 business day post-restraint, the Designated Coordinator a designated staff will verify that Form 31032, <u>or the currently designated reporting form</u> , was completed timely , accurately and in its entirety.
30. For each use, Form 31032 (or its successor) was timely completed by the end of the shift.		Accepted		
30.1	When reviewing the restraint form 24 hrs post-restraint, the Designated Coordinator will verify that Form 31032 was completed timely, accurately and in its entirety.	Accepted with edits	Edited to allow for future versions and numbering of the currently designated reporting form.	When reviewing the restraint form 24 hrs hours or 1 business day post-restraint, the Designated Coordinator a designated staff-will verify that Form 31032, <u>or the currently designated reporting form</u> , was completed timely, accurately and in its entirety.
31. Each Form 31032 (or its successor) indicates that no prohibited restraint was used.		Accepted		
31.1	Staff will indicate what type of restraint was used on Form 31032.	Accepted with edits	Edited to allow for future versions and numbering of the currently designated reporting form.	Staff will indicate what type of restraint was used on Form 31032 <u>or the currently designated reporting form</u> .
31.2	When reviewing the restraint form 24 hrs post-restraint, the Designated Coordinator will verify that no prohibited techniques were used.	Accepted with edits	Edited to reflect current practice; this provides flexibility in performing the task.	When reviewing the restraint form 24 hrs hours or 1 business day post-restraint, the Designated Coordinator a designated staff will verify that no prohibited techniques were used.
SETTLEMENT AGREEMENT SECTION VI.B RESTRAINT REPORTING & MGMT- NOTIFICATIONS		Accepted		
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
32. Within 24 hours, and no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Office of Health Facility Compliance		Accepted with edits	Edited for clarity and accuracy.	32. Within 24 hours, and <u>but</u> no later than one business day, Form 31032 (or its successor) in each instance was submitted to the Office of Health Facility Compliance <u>Complaints</u>
	32.1 Form 31032 (or its successor) is sent to the Office of Health Facility Compliance within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the Office of Health Facility Compliance <u>Complaints</u> within 24 hours <u>but no later than one business day.</u>
33. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the Ombudsman for MH & DD		Accepted with edits	Edited for clarity and accuracy.	33. Within 24 hours, and <u>but</u> no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the Ombudsman for MH & DD
34. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the DHS Licensing	33.1 Form 31032 (or its successor) is sent to the Ombudsman for MH & DD within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the Ombudsman for MH & DD within 24 hours <u>but no later than one business day.</u>
	34. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the DHS Licensing	Accepted with edits	Edited for clarity and accuracy.	34. Within 24 hours, and <u>but</u> no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the DHS Licensing
35. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the Court Monitor and to the DHS Internal Reviewer	34.1 Form 31032 (or its successor) is sent to DHS Licensing within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to DHS Licensing within 24 hours, <u>but no later than one business day.</u>
	35. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the Court Monitor and to the DHS Internal Reviewer	Accepted with edits	Edited for clarity and accuracy.	35. Within 24 hours, and <u>but</u> no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the Court Monitor and to the DHS Internal Reviewer
35.2 Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours.	35.1 Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours <u>but no later than one business day.</u>
	35.2 Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours.	Not Accepted	Repeat of 35.1	Form 31032 (or its successor) is sent to the Court Monitor and to the DHS Internal Reviewer within 24 hours.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
36. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the client's family and/or guardian.		Accepted with edits	Edited for clarity and accuracy.	36. Within 24 hours, and no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the client's family and/or guardian.
36.1	Form 31032 (or its successor) is sent to the client's family/guardian within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the client's family/guardian within 24 hours, but no later than one business day.
37. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the Case anager.		Accepted with edits	Edited for clarity and accuracy.	37. Within 24 hours, and no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the Case <u>Manager</u> .
37.1	Form 31032 (or its successor) is sent to the case manager within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the case manager within 24 hours, but no later than one business day.
38. Within 24 hours, and no later than one business day, Form 31032 in each instance was submitted to the Plaintiff's counsel.		Accepted with edits	Edited for clarity and accuracy.	38. Within 24 hours, and no later than one business day, Form 31032 <u>or its successor</u> in each instance was submitted to the Plaintiff's counsel.
38.1	Form 31032 (or its successor) is sent to the Plaintiff's counsel within 24 hours.	Accepted with edits	Edited for clarity and accuracy.	Form 31032 (or its successor) is sent to the Plaintiff's counsel within 24 hours, but no later than one business day.
SETTLEMENT AGREEMENT SECTION VI.C. RESTRAINT RESPONSES ARE NOT TO REPLACE OTHER INCIDENT REPORTING, INVESTIGATION, ANALYSIS & FOLLOW-UP		Accepted with edits	Edited for consistency with the JSA.	SETTLEMENT AGREEMENT SECTION VI.C. RESTRAINT RESPONSES ARE NOT TO REPLACE OTHER INCIDENT REPORTING, INVESTIGATION, ANALYSIS & FOLLOW-UP The reporting requirements in this Section VI shall not replace any other applicable requirement for incident reporting, investigation, analysis and follow up.
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
39. Other reports, investigations, analyses and follow up were made in each case of restraint use.		Accepted with edits	Edited for consistency with the JSA.	39. Other reports, investigations, analyses and follow up were made in each case of restraint use. The reporting requirements in this Section VI shall not replace any other applicable requirement for incident reporting, investigation, analysis and follow up.
39.1	The Designated Coordinator will review each incident, injury and/or restraint use within 1 business day of its occurrence to: 1) Evaluate the immediate health and safety of the individual(s) involved; 2) Ensure no prohibited techniques were used; 3) Ensure all documentation and notifications were properly made; and 4) Determine what, if any, immediate measures must be taken.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Designated Coordinator will review each incident, injury and/or restraint use within 1 business day of its occurrence to: 1) Evaluate the immediate health and safety of the individual(s) involved; 2) Ensure no prohibited techniques were used; 3) Ensure all documentation and notifications were properly made; and 4) Determine what, if any, immediate measures must be taken.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
39.2	The Designated Coordinator will convene an IDT meeting within 3 business days of a restraint to: 1) Review the circumstances surrounding the behavioral emergency; 2) Determine what factors likely contributed to the behavioral emergency, i.e. life event, environmental, relational discord, etc.; 3) Identify what therapeutic interventions, including individualized strategies were employed and why they were unsuccessful in de-escalating the situation; 4) Review and assess the efficacy of the individual's PBS plan, making changes as needed; 5) Determine if trends/patterns can be identified with this individual or this living area; and 6) Take all corrective measures deemed necessary, indicating what actions are being taken, the party responsible for taking such action; the date by which these action will be taken and how the efficacy of such actions will be monitored. Documentation of the IDT meeting, including attendees, review and actions taken will be thoroughly documented in the individual's record.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Designated Coordinator will convene an IDT meeting within 3 business days of a restraint to: 1) Review the circumstances surrounding the behavioral emergency; 2) Determine what factors likely contributed to the behavioral emergency, i.e. life event, environmental, relational discord, etc.; 3) Identify what therapeutic interventions, including individualized strategies were employed and why they were unsuccessful in de-escalating the situation; 4) Review and assess the efficacy of the individual's PBS plan, making changes as needed; 5) Determine if trends/patterns can be identified with this individual or this living area; and 6) Take all corrective measures deemed necessary, indicating what actions are being taken, the party responsible for taking such action; the date by which these action will be taken and how the efficacy of such actions will be monitored. Documentation of the IDT meeting, including attendees, review and actions taken will be thoroughly documented in the individual's record.
39.3	When changes to an individual's program plan and/or PBS plan are recommended during the IDT's restraint review, the Designated Coordinator will ensure that such changes are made within 10 business days of the restraint.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	When changes to an individual's program plan and/or PBS plan are recommended during the IDT's restraint review, the Designated Coordinator will ensure that such changes are made within 10 business days of the restraint.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
39.4	A Facility-based Positive Behavioral Supports Review (PBSR), comprised of both behavioral analysts and non-clinical staff, will be established and maintained for the purposes of: 1) Reviewing all positive behavioral support plans to ensure they adhere to current best practice; 2) Approving and monitoring the efficacy of all positive behavioral support plans; 3) behavioral support plans; 3) Reviewing the use of any restrictive and/or emergency interventions, i.e. restraints, 911 calls, etc. The PBSR Committee will meet on a monthly basis.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	A Facility-based Positive Behavioral Supports Review (PBSR), comprised of both behavioral analysts and non-clinical staff, will be established and maintained for the purposes of: 1) Reviewing all positive behavioral support plans to ensure they adhere to current best practicespractices; 2) Approving and monitoring the efficacy of all positive behavioral support plans; 3) Reviewing the emergency use of any restrictive and/or emergency interventions, i.e. restraints, 911 calls, psychotropic PRN medications, etc. The PBSR Committee will meet on a monthly basis.
39.5	The PBSR committee will maintain meetings detailing attendance (person/title); chairperson; individual and aggregate data review; issues and trends identified (individual and systemic); corrective measures are to be taken; dates by which such corrective measures are to be completed; responsible parties; and follow-up of the previous month's action plans.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The PBSR committee will maintain meetings detailing attendance (person/title); chairperson; individual and aggregate data review; issues and trends identified (individual and systemic); corrective measures to be taken; dates by which such corrective measures are to be completed; responsible parties, and follow-up of the previous month's action plans.
39.6	The Department will identify and address any trends or patterns from investigations.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will identify and address any trends or patterns from investigations.
SETTLEMENT AGREEMENT SECTION VII.B. RETRAINT REVIEW - INTERNAL REVIEWER		Accepted with edits	The text was edited to align with the JSA.	SETTLEMENT AGREEMENT SECTION VII.B. RETRAI NTRESTRAINT REVIEW - INTERNAL REVIEWER
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
40. DHS designated one employee with responsibility for monitoring the Facility's use of restraints as the Internal Reviewer.		Accepted with edits	Edited for consistency with the JSA.	40. DHS designated one employee with responsibility for monitoring the Facility's use of restraints as the Internal Reviewer. The Department shall designate one employee with responsibility for <u>monitoring the Facility's use of restraints ("internal reviewer")</u> .
40.1	Richard S. Amado, PhD has been designated as the internal reviewer.	Accepted with edits	Text is edited to allow flexibility in staffing.	Richard S. Amado, PhD has been designated as the <u>An</u> internal reviewer <u>has been designated.</u>
41. The Facility provided Form 31032 to the Internal Reviewer within 24 hours of the use of manual or mechanical restraint.		Accepted with edits	Edited to allow for potential form revisions. Mechanical restraints are not allowed so they do not need to be included here.	41. The Facility provided Form 31032 or its successor to the Internal Reviewer within 24 hours of the use of manual or mechanical restraint. <u>41. The Facility shall complete METO Form 31032 and provide it to the internal reviewer, and all others listed in Section VI. B., above, within twenty four (24) hours of the use of manual or mechanical restraint.</u>
41.1	The shift supervisor/administrator on duty will notify the Internal Reviewer of the restraint by the end of his/her shift. Notification will be made electronically along with the completed Restraint Form (DHS #3654, METO #31032 or their successor).	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	The shift supervisor/administrator administrator on duty will notify the Internal Reviewer of the restraint by the end of his/her shift within 24 hours or one business day. Notification will be made electronically along with the completed Restraint Form (Facility #3654, Facility #31032 or their successor).

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
42. TThe Internal Reviewer will consult with staff present and directly involved with each restraint to address: 1) Why/how deescalation strategies and less restrictive interventions failed to abate the threat of harm, 2) What additional behavioral support strategies may assist the individual., and 3) Systemic and individual issues raised by the use of restraint., and and the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the Facility.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	42. TThe Internal Reviewer will consult with Facility staff present and directly involved with each restraint to address: 1) Why/how de_escalation strategies and less restrictive interventions interventions failed to abate the threat of harm, 2) What additional behavioral support strategies may assist the individual., and 3) Systemic and individual issues raised by the use of restraint., and and the The Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the Facility. <u>The internal reviewer shall consult with staff at the Facility in order to assist eliminating the use of manual and mechanical restraints.</u>
42.1	The Internal Reviewer will consult with staff present and directly involved with each restraint to address: 1) Why/how deescalation strategies and less restrictive interventions failed to abate the threat of harm, 2) What additional behavioral support strategies may assist the individual., 3) Systemic and individual issues raised by the use of restraints., and and 4) the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the Facility.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Internal Reviewer will consult with Facility staff present and directly involved with each restraint to address:— 1) Why/how de_escalation strategies and less restrictive interventions interventions failed to abate the threat of harm, 2) What additional behavioral support strategies may assist the individual., and 3) Systemic and individual issues raised by the use of restraints., and and 4) the Internal Reviewer will also review Olmstead or other issues arising from or related to, admissions, discharges and other separations from the Facility.
SETTLEMENT AGREEMENT SECTION VII.B. RETRAINT REVIEW - EXTERNAL REVIEWER		Accepted with edits	Edited for consistency with the JSA.	SETTLEMENT AGREEMENT SECTION VII.B. RETRAI NT <u>RESTRAINT</u> REVIEW - EXTERNAL REVIEWER
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
43 to 47.1	43. There is an External Reviewer. On April 23, 2013, the Court appointed the Court Monitor as the External Reviewer.	Accepted with edits	Edited for consistency with the JSA.	43. There is an External Reviewer. On April 23, 2013, the Court appointed the Court Monitor as the External Reviewer. The external reviewer function, as set forth in the Stipulated Class Action Settlement Agreement at paragraph VII.B (External Reviewer) will be subsumed within the Monitor’s role as originally set forth in the Court’s July 17, 2012 Order, at which time the Court appointed David Ferleger as the Court’s independent consultant and monitor.
	44. The External Reviewer was approved by the Plaintiffs and Defendants.	Accepted		
	There is no Evaluation Criterion 45 (former EC 45 is superceded by EC 43).	Accepted		
	There is no Evaluation Criterion 46 (former EC 46 is superceded by EC 43).	Accepted		
	47. DHS funds the costs of the external reviewer-.	Accepted with edits.	Edited for consistency with the JSA.	47. DHS funds the costs of the external reviewer-. <u>DHS will fund the costs of the external reviewer.</u>
	By Order of April 23, 2013, the Court appointed the Court Monitor as the External Reviewer. Under procedures established by the Court, the Court Monitor submits invoices to the Court. DHS deposits sufficient funds into the Court’s Registry. The Court ensures payment is made by DHS.	Accepted		
There is no Evaluation Criterion 48 (former EC 48 is superceded by EC 43).		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
49. After providing Plaintiffs and the Department the opportunity to review and comment on a draft, the External Reviewer issued written quarterly reports (beginning 3/5/12) informing the Department whether the Facility is in substantial compliance with the Agreement and the incorporated policies, enumerating the factual basis for its conclusions.		Accepted with edits	Edited for consistency with the JSA.	49. After providing Plaintiffs and the Department the opportunity to review and comment on a draft, the External Reviewer issued written quarterly reports (beginning 3/5/12) informing the Department whether the Facility is in substantial compliance with the Agreement and the incorporated policies, enumerating the factual basis for its conclusions. <u>Unless otherwise directed by the Court, every three (3) months, the external reviewer shall issue a written report informing the Department whether the Facility is in substantial compliance with this Agreement and the policies incorporated herein. The report shall enumerate the factual basis for its conclusion and may make recommendations and offer technical assistance. The external reviewer shall provide Plaintiffs and the Department with a draft report. The Plaintiffs and the Department will have fifteen (15) business days to provide written comment. The external reviewer's final report shall be issued to Plaintiffs and the Department thereafter.</u>
50. There are recommendations and offers of technical assistance.		Accepted		
51. Court Monitor, in conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance in his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.		Accepted with edits	Edited for clarity.	51. Court Monitor, in In conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance in <u>at</u> his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
49 to 51.1	In conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance in his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.	Accepted with edits	Edited for clarity.	In conjunction with duties and responsibilities under the Order of July 17, 2012, the Court Monitor reviews and makes judgments on compliance, makes recommendations and offers technical assistance at <u>at</u> his discretion, and files quarterly and other reports with the Court. Timing of reports is subject to the Court's needs, results of Monitor's reviews, and to the monitoring plan pursuant to the Order of August 28, 2013.
52. The following have access to the Facility and its records: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' counsel.		Accepted with edits		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
52.1	Open access to the Facility, its successors, and their records is given to the Office of Ombudsman-MH/DD, The Disability Law Center and Plaintiffs' counsel.	Accepted with edits.	Edited for consistency with the JSA.	Open access to the Facility, its successors, and their records is given to the Office of Ombudsman-MH/DD, The Disability Law Center and Plaintiffs' counsel. In addition to the external reviewer's authority described above, the following shall have access to the Facility and its records, including the medical records of residents for the purpose of ascertaining whether the Facility is complying with this Agreement: a. The Office of Ombudsman for Mental Health and Developmental Disabilities, consistent with its authority under Minn. Stat. § 245.94. This Settlement Agreement shall be deemed adequate basis for the Office of Ombudsman to exercise its powers under Minn. Stat. § 245.94, subd. 1. b. The Disability Law Center, consistent with its authority under 42 U.S.C. § 15043. This Settlement Agreement shall be deemed adequate basis for the Disability Law Center, as the designated Protection and Advocacy organization in Minnesota, to exercise its authority under 42 U.S.C. § 15043. c. Plaintiffs' counsel, upon notice to and coordination with, the Minnesota Attorney General's Office and pursuant to the Protective Order in this case.
53. The following exercised their access authority: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' counsel.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	53. The following exercised their access authority: The Office of Ombudsman for Mental Health and Developmental Disabilities, The Disability Law Center, and Plaintiffs' counsel.
53.1	The Ombudsman-MH/DD, Disability Law Center and Plaintiffs' counsel have all exercised their authority to access the Facility, its successors, and their records.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Ombudsman-MH/DD, Disability Law Center and Plaintiffs' counsel have all exercised their authority to access the Facility, its successors, and their records.
SETTLEMENT AGREEMENT SECTION VIII. TRANSITION PLANNING		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
REQUIRED TASKS				
54. The State undertakes best efforts to ensure that each resident is served in the most integrated setting appropriate to meet such person's individualized needs, including home or community settings. Each individual currently living at Cambridge and successor facilities and all individuals admitted will be assisted to move towards more integrated community settings which are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom and which is more typical will be pursued.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	54. The State undertakes best efforts to ensure that each resident is served in the most integrated setting appropriate to meet such person's individualized needs, including home or community settings. Each individual currently living at Cambridge and successor facilities and all individuals admitted will be assisted to move towards more integrated community settings which are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom and which is more typical will be pursued.
54.1	Each individual currently living at Cambridge and successor facilities and all individuals admitted in the future will be assisted to move towards more integrated community settings which are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom and which is more typical will be pursued.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each individual currently living at Cambridge and successor facilities, and all individuals admitted in the future will be assisted to move towards more integrated community settings which are highly individualized and maximize the opportunity for social and physical integration, given each person's legal standing. In every situation, opportunities to move to a living situation with more freedom and which is more typical will be pursued.
54.2	Regarding transition planning for individuals entering more restrictive settings, the tasks under Evaluation Criteria 57, 58, 59 and 60 shall be fulfilled.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Regarding transition planning for individuals entering more restrictive settings, the tasks under Evaluation Criteria 57, 58, 59 and 60 shall be fulfilled.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
55. The State actively pursues the appropriate discharge of residents and provided them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.		Accepted with edits	The text is edited for consistency with the JSA.	55. The State actively pursues the appropriate discharge of residents and provided them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object. <u>The State shall actively pursue the appropriate discharge of residents and provide them with adequate and appropriate transition plans, protections, supports, and services consistent with such person's individualized needs, in the most integrated setting and where the individual does not object.</u>
55.1	Each individual currently living at Cambridge, and successor facilities and any individuals admitted prior to its closure will have an appropriate transition plan developed within 30 days of admission in accordance with the individual needs and preference for the most integrated setting possible. (For this purpose "admission" and "commitment" are treated the same.).	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each individual currently living at Cambridge, and successor facilities and any individuals admitted prior to its closure will have an appropriate transition plan developed within 30 days of admission in accordance with the individual needs and preference for the most integrated setting possible. (For this purpose "admission" and "commitment" are treated the same.).

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
55.2	For individuals who may by law or court order be required to enter more restrictive and less integrated circumstances, such as incarceration in a prison, person centered planning and transition planning is given the same importance as voluntary admissions. All efforts will be towards preparation and transition, safeguarding, negotiating with facilities, supports while in post-Facility transition into well-matched supports.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	For individuals who may by law or court order be required to enter more restrictive and less integrated circumstances, such as incarceration in a prison, person centered planning and transition planning is given the same importance as voluntary admissions. All efforts will be towards preparation and transition, safeguarding, negotiating with facilities, supports while in Facility, and immediate post-Facility transition into well-matched supports.
56.	Each resident and the resident's family and/or legal representative has been permitted to be involved in the team evaluation, decision making, and planning process to the greatest extent practicable, using whatever communication method he or she (or they) prefer.	Accepted		
56.1	Each individual and/or the individual's family and/or legal representative as desired by the individual or required by guardianship is permitted, actively encouraged, and welcomed to be involved in the individual's person centered greatest extent practicable utilizing whatever communication method the individual prefers and respecting the individual's right to choose the participant's. Written invitations to all meetings will be extended. Alternate means of participation will be extended to those who cannot travel or attend, including phone and video conferencing.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each individual and/or the individual's family and/or legal representative as desired by the individual or required by guardianship is permitted, actively encouraged, and welcomed to be involved in the individual's person centered planning and decision making to the greatest extent practicable utilizing whatever communication method the individual prefers and respecting the individual's right to choose the participants. Written invitations to all planning and evaluation meetings will be extended. Alternate means of participation will be extended to those who cannot travel or attend, including phone and video conferencing.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
56.2	Each individual will be invited and encouraged to participate in and take leadership in the person-centered planning processes when this is possible and desired by the person. In all circumstances, the person centered planning process will be engaged in for and with all individuals at Cambridge, with the understanding that transition and change will happen, that the people at Cambridge are vulnerable people at the height of hard times, and may need the alliance and support of other allies to support the process of moving forward. High quality person centered planning, including the development of person centered profiles, plans, and transition plans, will not be delayed or minimized by a person's perceived level of readiness to take leadership of the process, or willingness to engage in the process.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each individual will be invited and encouraged to participate in and take leadership in the person-centered planning processes when this is possible and desired by the person. In all circumstances, the person-centered planning process will be engaged in for and with all individuals at Cambridge, with the understanding that transition and change will happen, that the people at Cambridge are vulnerable people at the height of hard times, and may need the alliance and support of other allies to support the process of moving forward. High quality Person-centered planning, including the development of person-centered profiles, plans, and transition plans, will not be delayed or minimized by a person's perceived level of readiness to take leadership of the process, or willingness to engage in the process.
57.	To foster each resident's self- determination and independence, the State uses person centered planning principles at each stage of the process to facilitate the identification of the resident's specific interests, goals, likes and dislikes, abilities and strengths, as well as support needs.	Not accepted	The proposed text is duplicative of EC 3.	57. To foster each resident's self- determination and independence, the State uses person-centered planning principles at each stage of the process to facilitate the identification of the resident's specific interests, goals, likes and dislikes, abilities and strengths, as well as support needs.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.1	Person Centered Planning a) will be started immediately upon meeting the person, before admission if possible; b) will be on-going; c) will be supported by a team of people who represent the interests of the person, if need be; d) without exception, and only if the person objects to the inclusion of specific people, the support team will include willing family members, case managers, current, past and future service workers, and at least one individual who is in a freely-given relationship with the person which is conflict-free. This can include a community advocate, citizen advocate, family member, or other individual who only has the welfare of the individual to consider. If the individual is unable or unwilling to participate, people who know about and care for the individual will still be invited to engage in sharing their perspectives about what that positive future can be and what is needed to bring it about. This process will begin at first contact, with a first person centered plan drawn up by day 30 after admission or 45 days from approval of this Plan for existing individuals living at Cambridge or successor facilities.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Person Centered Planning a) will be started immediately upon meeting the person, before admission if possible; b) will be on-going; c) will be supported by a team of people who represent the interests of the person, if need be; d) without exception, and only if the person objects to the inclusion of specific people, the support team will include willing family members, case managers, current, past and future service workers, and at least one individual who is in a freely-given relationship with the person which is conflict-free. This can include a community advocate, citizen advocate, family member, or other individual who only has the welfare of the individual to consider. If the individual is unable or unwilling to participate, people who know about and care for the individual will still be invited to engage in sharing their perspectives about what that positive future can be and what is needed to bring it about. This process will begin at first contact, with a first person centered plan drawn up by day 30 after admission or 45 days from approval of this Plan for existing individuals living at Cambridge or successor facilities.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.2	All person-centered team members will contribute ideas, suggestions, and possibilities for envisioning a positive and possible future, and to deepen the understanding and vision of the team and the person. They will offer clarity, depth, probing for the big themes and issues which need to be present in the person's life, and go well beyond simply "listening" to the focus person's member of a person centered team involves engagement, responsibility, maturity, and an acknowledgement of one's role in a person's life.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All person-centered team members will contribute ideas, suggestions, and possibilities for envisioning a positive and possible future, and to deepen the understanding and vision of the team and the person. They will offer clarity, depth, probing for the big themes and issues which need to be present in the person's life, and go well beyond simply "listening" to the focus person's ideas and recording them. Being a member of a person-centered team involves engagement, responsibility, maturity, and an acknowledgement of one's role in a person's life.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.3	Each Person Centered Plan will be enriched, altered and moved forward at least every 30 days as the person becomes better known and moves towards a new living situation. As plans for this new living situation emerge, each plan will include all activities relevant for transition to a new living situation, new living situation, relevant and necessary supports to assure the person will have good success, and protections that need to be in place.	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	Each Person Centered Plan will be enriched, altered and moved forward at least every 30 days as the person becomes better known and moves towards a new living situation. As plans for this new living situation emerge, each plan will include all activities relevant for transition to a new living situation, relevant and necessary supports to assure the person will have good success, and protections that need to be in place.
57.4	The information from each Person Centered Plan will be fully incorporated into each person's transition plan, Positive Behavior Support Plan, goal plans, and service objectives within any Individual Service Plan.	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	The information from each Person Centered Plan will be fully incorporated into each person's transition plan, Positive Behavior Support Plan, goal plans, and service objectives within any Individual Service Plan.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.5	All plan facilitators will have significant experience and background in facilitation, social devaluation and its consequences, and the principles of Normalization/ Social Role Valorization, person centered thinking, and the various and vast array of useful tools and techniques which may be of use for a particular person. In this manner, a thoughtful, authentic, individualized and successful planning process will result in meaningful outcomes. Evidence of use of various, individualized techniques for different individual people will be clear in the development of person centered plans. (PATH, MAPS, Personal Futures Planning, One Page Profiles, and Helen Sanderson's Person Centred Thinking, are examples)	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	All plan facilitators will have significant experience and background in facilitation, social devaluation and its consequences, and the principles of Normalization/ Social Role Valorization, person centered thinking, and the various and vast array of useful tools and techniques which may be of use for a particular person. In this manner, a thoughtful, authentic, individualized and successful planning process will result in meaningful outcomes. Evidence of use of various, individualized techniques for different individual people will be clear in the development of person centered plans. (PATH, MAPS, Personal Futures Planning, One Page Profiles, and Helen Sanderson's Person Centred Thinking, are examples)
57.6	An annual learning and professional development plan which includes the above areas will be developed with and for each facilitator of person centered processes. It may include reading, research, formal, and informal training, mentoring, and development events. These learning and professional development plans will include a minimum of 25 hours per year of educational activities (formal and informal) focused on person centered planning, and will be completed as planned. Attendance at professional conferences, in and out of state, will be supported and facilitated.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	An annual learning and professional development plan which includes the above areas will be developed with and for each facilitator of person centered processes. It may include reading, research, formal, and informal training, mentoring, and development events. These learning and professional development plans will include a minimum of 25 hours per year of educational activities (formal and informal) focused on person centered planning, and will be completed as planned. Attendance at professional conferences, in and out of state, will be supported and facilitated.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.7	Person Centered Planning will include the intentional development of each support team's understanding and analysis of the individual's particular life experiences and how they <u>those</u> have impacted the person. Themes, patterns, potential responses, and lessons should be drawn from this knowledge. Biographical timelines, or other person-centered means to capture histories and understand the person will be conducted for each person, with the collaboration of the person and family, if appropriate.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Person Centered Planning will include the intentional development of each support team's understanding and analysis of the individual's particular life experiences and how they <u>those</u> have impacted the person. Themes, patterns, potential responses, and lessons should be drawn from this knowledge. Biographical timelines, or other person-centered means to capture histories and understand the person will be conducted for each person, with the collaboration of the person and family, if appropriate.
57.8	The development of a person centered description or personal profile will be used to develop the initial person-centered plan.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The development of a person-centered description or personal profile will be used to develop the initial person-centered plan.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
57.9	The formats for the Person Centered Plan, person centered description or personal profile will be revised to comply with the content requirements of this Implementation Plan. The Individualized Program Plan will be clearly labeled as the Person Centered Plan. The Individualized Program Plan/Person Centered Plan will be re-designed to reflect a person-centered approach and style. This will include adding: 1. the focus person's goals, interests and vision for the future; 2. The identification of any actions and plans towards achieving those goals; 3. Support to be provided and by whom; 4. Use of everyday, informal language and avoidance of unnecessary service jargon. Objectives for any Individualized Program Plan, no matter what it is called or who requires it, conducted separately or together, will be drawn directly from the person-centered description/profile.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The formats for the Person Centered Plan, person centered description or personal profile will be revised to comply with the content requirements of this Implementation Plan. The Individualized Program Plan will be clearly labeled as the Person Centered Plan. The Individualized Program Plan/Person Centered Plan will be re-designed to reflect a person-centered approach and style. This will include adding: 1. the focus person's goals, interests and vision for the future; 2. The identification of any actions and plans towards achieving those goals; 3. Support to be provided and by whom; 4. Use of everyday, informal language and avoidance of unnecessary service jargon. Objectives for any Individualized Program Plan, no matter what it is called or who requires it, conducted separately or together, will be drawn directly from the person-centered description/profile.
58. Each resident has been given the opportunity to express a choice regarding preferred activities that contribute to a quality life.		Accepted with edits	Edited for consistency with the JSA.	Each resident has been shall be given the opportunity to express a choice regarding preferred activities that contribute to a quality life.
58.1	For each person served at Cambridge and successor facilities, the Person Centered Plan will include preferred activities, areas the person wants to learn and grow in, relationships to strengthen, and competencies to learn.	Not Accepted	Repetitive.	For each person served at Cambridge and successor facilities, the Person Centered Plan will include preferred activities, areas the person wants to learn and grow in, relationships to strengthen, and competencies to learn.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
58.2	Frequent, daily opportunities will be built into daily life for each person to engage in meaningful activities that are personalized, individualized, and selected by the person. These will be activities planned with the person, and carried out in an individualized fashion. "House activities" will generally not be consistent with providing individualized, person-centered activities which the person freely chooses to engage in.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Frequent, daily opportunities will be built into daily life for each person to engage in meaningful activities that are personalized, individualized, and selected by the person. These will be activities planned with the person, and carried out in an individualized fashion. "House activities" will generally not be consistent with providing individualized, person-centered activities which the person freely chooses to engage in.
59.	The State undertakes best efforts to provide each resident with reasonable placement alternatives. This may include living situations which are not offered in existing structured services. It may also be impossible to "show" a person a service that matches their needs, even though they may select that option from several. If an existing residential service is not identified or available, the appropriate service must be created, using an individualized service design process.	Accepted with edits	Edited for consistency with the JSA.	59. The State undertakes best efforts to provide each resident with reasonable placement alternatives. This may include living situations which are not offered in existing structured services. It may also be impossible to "show" a person a service that matches their needs, even though they may select that option from several. If an existing residential service is not identified or available, the appropriate service must be created, using an individualized service design process. <u>The State shall undertake best efforts to provide each resident with reasonable placement alternatives. It is the State's goal that all residents be served in integrated community settings with adequate protections, supports, and other necessary resources which are identified as available by service coordination.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
59.1	Each individual's Person Centered Plan will embody continuously increasing clarity at each revision/development meeting on what an ideal living situation may look like for the person. These will support and describe "must have" components which must be in place in any considered situation. This may include living situations which are not offered in existing structured services. It may also be impossible to "show" a person a service that matches their needs, even though they may select that option from several.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each individual's Person Centered Plan will embody continuously increasing clarity at each revision/development meeting on what an ideal living situation may look like for the person. These will support and describe "must have" components which must be in place in any considered situation. This may include living situations which are not offered in existing structured services. It may also be impossible to "show" a person a service that matches their needs, even though they may select that option from several.
59.2	If an existing service/living situation is identified and selected by the individual with assistance from the support team, alterations, enhancements, and additional supports will be added whenever appropriate to ensure robust community supports which meet the essential needs for assistance, structure, and support as outlined in the Person Centered Plan. "Must haves" identified as in 59.1 are required to be in place.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	If an existing service/living situation is identified and selected by the individual with assistance from the support team, alterations, enhancements, and additional supports will be added whenever appropriate to ensure robust community supports which meet the essential needs for assistance, structure, and support as outlined in the Person Centered Plan. "Must haves" identified as in 59.1 are required to be in place.
59.3	If an existing residential service is not identified or available, the appropriate service must be created, using an individualized service design process.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	If an existing residential service is not identified or available, the appropriate service must be created, using an individualized service design process.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
59.4	When a living situation is identified as a possibility, the individual and the support team as appropriate will have multiple opportunities to visit, meet potential house-mates, interview the staff, and provider, spend time in the situation, and be given the opportunity to make a choice about the living situation, request program enhancements or adjustments, or decline the option.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	When a living situation is identified as a possibility, the individual and the support team as appropriate will have multiple opportunities to visit, meet potential house-mates, interview the staff, and provider, spend time in the situation, and be given the opportunity to make a choice about the living situation, request program enhancements or adjustments, or decline the option.
59.5	When a discharge into an alternative living situation is agreed upon, the transition plan will be further developed and finalized. This pre-discharge iteration of the transition plan will include not only the sharing of information and documents transfers between providers, but additionally: 1. An individualized plan to facilitate a smooth move 2. Assistance to the person to navigate the move with ease, and arrange for safeguarding and transfer of the person's belongings. 3. Planning for and making purchases for new home 4. Assistance to become familiar with new neighborhood, area, town 5. Planning for packing and move day 6. Personalization of new home 7. Notification of family and friends 8. Post office and utility changes 9. Introductions to neighbors 10. Setting up opportunities to deepen relationships with future housemates 11. Celebrations, welcoming, and farewells 12. Designing layout of space, window treatments, etc. These types of considerations are a part of the typical processes that valued adults in our culture when preparing to move, and these and others shall be considered.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	When a discharge into an alternative living situation is agreed upon, the transition plan will be further developed and finalized. This pre-discharge iteration of the transition plan will include not only the sharing of information and documents transfers between providers, but additionally: 1. An individualized plan to facilitate a smooth move 2. Assistance to the person to navigate the move with ease, and arrange for safeguarding and transfer of the person's belongings. 3. Planning for and making purchases for new home 4. Assistance to become familiar with new neighborhood, area, town 5. Planning for packing and move day 6. Personalization of new home 7. Notification of family and friends 8. Post office and utility changes 9. Introductions to neighbors 10. Setting up opportunities to deepen relationships with future housemates 11. Celebrations, welcoming, and farewells 12. Designing layout of space, window treatments, etc. These types of considerations are a part of the typical processes that valued adults in our culture when preparing to move, and these and others shall be considered.
59.6	The format for the transition plan will incorporate and provide for address of the elements in 59.6 above.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The format for the transition plan will incorporate and provide for address of the elements in 59.6 above.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
60. The provisions under this Transition Planning Section have been implemented in accord with the <i>Olmstead</i> decision and including the Required Tasks below.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	60. The provisions under this Transition Planning Section have been implemented in accord with the <i>Olmstead</i> decision and including the Required Tasks below.
60.1	Any living arrangement, day service, or other service which is administered or organized in a segregated manner must be justified in writing as a part of the transition plan as being necessary. In a segregated manner means that the people served are all people with disabilities who are have not specifically chosen to live or be served together. This justification will be accompanied by objectives to increase social and physical integration which will be included in service planning objectives and program planning.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Any living arrangement, day service, or other service which is administered or organized in a segregated manner must be justified in writing as a part of the transition plan as being necessary. In a segregated manner means that the people served are all people with disabilities who are have not specifically chosen to live or be served together. This justification will be accompanied by objectives to increase social and physical integration which will be included in service planning objectives and program planning.
60.2	All services provided and planned for, and transitioned into must be adequate, appropriate, and carefully monitored. This need for monitoring will be carefully weighed by each person centered team and addressed. This includes services at Cambridge and new living and working situations a person is transitioning into.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All services provided and planned for, and transitioned into must be adequate, appropriate, and carefully monitored. This need for monitoring will be carefully weighed by each person centered team and addressed. This includes services at Cambridge and new living and working situations a person is transitioning into.
60.3	All services provided at Cambridge and in future living arrangements will include assisting people to have meaningful roles in community life, civic life, relationships, work and career, home, and areas of personal interest. When appropriate, these areas of engagement will be envisioned by the team alongside the individual served, and opportunities will be created for this engagement in everyday life. These roles and engagements will be consistently identified and addressed within the Person-Centered Planning, Transition, and the Positive Behavior Support Plans development processes.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All services provided at Cambridge and in future living arrangements will include assisting people to have meaningful roles in community life, civic life, relationships, work and career, home, and areas of personal interest. When appropriate, these areas of engagement will be envisioned by the team alongside the individual served, and opportunities will be created for this engagement in everyday life. These roles and engagements will be consistently identified and addressed within the Person-Centered Planning, Transition, and the Positive Behavior Support Plans development processes.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
60.4	The above areas of engagement (community life, civic life, relationships, career, home, personal interests) will be included in each Person-Centered Plan as focus areas for planning and related objectives.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The above areas of engagement (community life, civic life, relationships, career, home, personal interests) will be included in each Person-Centered Plan as focus areas for planning and related objectives.
SETTLEMENT AGREEMENT SECTION IX.A. OTHER PRACTICES AT THE FACILITY – STAFF TRAINING		Accepted		
REQUIRED TASKS				
61. Facility treatment staff received training in positive behavioral supports, person centered approaches, therapeutic interventions, personal safety techniques, crisis intervention and post crisis evaluation.		Accepted with edits	Edited for consistency with the JSA	61. Facility treatment staff received training in <u>person centered planning</u> , positive behavioral supports, person centered approaches, person centered planning tools, positive behavior support tools, a therapeutic interventions, personal safety techniques, crisis intervention and post crisis evaluation <u>and assessment</u> .
61.1.	All current Cambridge Staff and successor facilities in all positions receive annual standardized training in 1. Positive Behavior Supports 2. Person Centered Approaches 3. Therapeutic Interventions 4. Personal safety techniques 5. Crisis Intervention 6. Post-Crisis Evaluation	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All current Cambridge Staff and successor facilities in all positions receive annual standardized training in 1. Positive Behavior Supports 2. Person Centered Approaches 3. Therapeutic Interventions 4. Personal safety techniques 5. Crisis Intervention 6. Post-Crisis Evaluation

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
61.2	All new or temporary staff at Cambridge and successor facilities in all positions receive standardized pre-service training in 1. Positive Behavior Supports 2. Person Centered Approaches 3. Therapeutic Interventions 4. Personal safety techniques 5. Crisis Intervention 6. Post-Crisis Evaluation	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All new or temporary staff at Cambridge and successor facilities in all positions receive standardized pre-service training in 1. Positive Behavior Supports 2. Person Centered Approaches 3. Therapeutic Interventions 4. Personal safety techniques 5. Crisis Intervention 6. Post-Crisis Evaluation
61.3	The Department will record, monitor and follow-up with the Facility administration to ensure that all Facility treatment staff receive all necessary training including, but not limited to, EC 62-64, below.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will record, monitor and follow-up with the Facility administration to ensure that all Facility treatment staff receive all necessary training including, but not limited to, EC 62-64, below.
62. This training was consistent with applicable best practices, including but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org) (February, 2007). If staff training programs at Cambridge and successor facilities will be competency-based with competency in both knowledge and skills.		Accepted with edits	Edited for consistency with the JSA.	62. This training was consistent with applicable best practices, including but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org) (February, 2007). If staff training programs at Cambridge and successor facilities will be competency-based with staff demonstrating current competency in both knowledge and skills. <u>All training shall be consistent with applicable best practices, including but not limited to the Association of Positive Behavior Supports, Standards of Practice for Positive Behavior Supports (http://apbs.org) (February, 2007).</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
62.1	All staff training programs at Cambridge and successor facilities will be competency-based with staff demonstrating current competency in both knowledge and skills.	Accepted with edits	Edited for consistency with the JSA.	All staff training programs at Cambridge and successor facilities will be competency-based with staff demonstrating current competency in both knowledge and skills. <u>All training will be documented in individual personnel training files. Staff will be required to pass knowledge tests upon completion of training. Knowledge tests might include didactic as well as practical application items. The results of the tests will be in personnel files. Any new staff person who does not pass the test will not be allowed to work with clients until demonstrating competency with the procedures. All current staff will be trained by June 30, 2011 and new staff will be trained as part of new employee orientation. New staff must demonstrate competence in Therapeutic Interventions and Personal Safety Techniques prior to working with clients. New employees who do not demonstrate competence in the procedures will not be certified in their positions. Performance deficiency correction tools will be used to address the issue of existing employees who do not demonstrate competency in the procedures. Data will be available on the percentage and number of staff trained. Staff who successfully pass the competence exam by demonstrating the skills taught in the course will be held accountable for using the skills on the job.</u>
62.2	Training curricula are developed, based on, and consistent with best practices in: 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) therapeutic Intervention Strategies; 4) personal safety techniques; and 5) crisis intervention and post crisis evaluation.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Training curricula are developed, based on, and consistent with best practices in: 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) therapeutic Intervention Strategies; 4) personal safety techniques; and 5) crisis intervention and post crisis evaluation.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
62.3	Each training program (that is, 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) therapeutic Intervention Strategies; 4) personal safety techniques and 5) crisis intervention & post crisis evaluation), will be evaluated at least annually and revised, if appropriate, to ensure adherence to evidence-based and best practices.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Each training program (that is, 1) Positive Behavioral Supports; 2) Person-Centered approaches/practices; 3) therapeutic Intervention Strategies; 4) personal safety techniques and 5) crisis intervention & post crisis evaluation); will be evaluated at least annually and revised, if appropriate, to ensure adherence to evidence-based and best practices.
62.4	DHS will ensure training programs promote sensitivity awareness surrounding individuals with cognitive and mental health disabilities and how their developmental level, cultural/familial background, history of physical or sexual abuse and prior restraints may affect their reactions during behavioral emergencies.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS will ensure training programs promote sensitivity awareness surrounding individuals with cognitive and mental health disabilities and how their developmental level, cultural/familial background, history of physical or sexual abuse and prior restraints may affect their reactions during behavioral emergencies.
62.5	DHS will ensure that training programs are designed to also develop staff's self-awareness of how their own experiences, perceptions and attitudes affect their response to behavioral issues and emergencies.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS will ensure that training programs are designed to also develop staff's self-awareness of how their own experiences, perceptions and attitudes affect their response to behavioral issues and emergencies.
63. Facility staff receive the specified number of hours of training subsequent to September 1, 2010 and prior to December 31, 2011: Therapeutic interventions (8 hours); Personal safety techniques (8 hours); Medically monitoring restraint (1 hour).		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
63.1	Competency-based training curriculum is developed which minimally provides 8 hours training in Therapeutic Interventions, Personal Safety Techniques and Medically Monitoring Restraints.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Competency-based training curriculum is developed which minimally provides 8 hours training in Therapeutic Interventions, Personal Safety Techniques and Medically Monitoring Restraints.
63.2	All current employees receive 8 hours of competency-based training on Therapeutic Interventions.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All current employees receive 8 hours of competency-based training on Therapeutic Interventions.
63.3	All current employees receive 8 hours of competency-based training on Personal Safety Techniques	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All current employees receive 8 hours of competency-based training on Personal Safety Techniques
63.4	All current employees receive 8 hours of competency-based training on Medically Monitoring restraints.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All current employees receive 8 hours of competency-based training on Medically Monitoring restraints.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
64. For each instance of restraint, all staff involved in imposing restraint received all the above training.		Accepted with edits	Edited for consistency with the JSA.	64. For each instance of restraint, all staff involved in imposing restraint received all the above training. <u>Staff at the Facility shall not be eligible to Impose restraint until the above specified training has been completed, and then only certain restraints in an emergency as set forth in Attachment A to this Agreement, Therapeutic Interventions And Emergency Use Of Personal Safety Techniques."</u>
64.1	No staff member is permitted to be assigned to direct support services until having received all required orientation and/or annual inservice training on all elements of EC 63, above.	Not Accepted	This is repetitive of EC 64.	No staff member is permitted to be assigned to direct support services until having received all required orientation and/or annual inservice training on all elements of EC 63, above.
SETTLEMENT AGREEMENT SECTION IX.B. OTHER PRACTICES AT THE FACILITY – HOURS OF TRAINING		Accepted		
REQUIRED TASKS				
65. Facility staff receive the specified number of hours of training: Person centered planning and positive behavior supports (with at least sixteen (16) hours on person centered thinking/planning): a total 40 hours; Post Crisis Evaluation and Assessment (4 hours).		Accepted		
65.1	All Facility staff have received the specified number of hours of training subsequent to September 1, 2010 and prior to March 31, 2012: Person centered planning and positive behavior supports (with at least sixteen (16) hours on person centered thinking/planning): a total 40 hours; Post Crisis Evaluation and Assessment, (4 hours).	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	All Facility staff have received the specified number of hours of training subsequent to September 1, 2010 and prior to March 31, 2012: Person centered planning and positive behavior supports (with at least sixteen (16) hours on person centered thinking/planning): a total 40 hours; Post Crisis Evaluation and Assessment, (4 hours).
SETTLEMENT AGREEMENT SECTION IX.C. OTHER PRACTICES AT THE FACILITY – VISITOR POLICY		Accepted		
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
66. Residents are permitted unscheduled and scheduled visits with immediate family and/or guardians, at reasonable hours, unless the Interdisciplinary Team (IDT) reasonably determines the visit is contraindicated.		Accepted		
66.1	Facilitate and allow all individuals to have scheduled and unscheduled visits with immediate family and/or guardians and other visitors if not contraindicated by court order or person centered plans.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Facilitate and allow all individuals to have scheduled and unscheduled visits with immediate family and/or guardians and other visitors if not contraindicated by court order or person centered plans.
67. Visitors are allowed full and unrestricted access to the resident's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, consistent with all residents' rights to privacy		Accepted		
67.1	Facilitate all visitors access to the individual's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, with attention paid to the right of individual privacy and person centered plans or court requirements.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Facilitate all visitors access to the individual's living areas, including kitchen, living room, social and common areas, bedroom and bathrooms, with attention paid to the right of individual privacy and person centered plans or court requirements.
68. Residents are allowed to visit with immediate family members and/or guardians in private without staff supervision, unless the IDT reasonably determines this is contraindicated.		Accepted		
68.1	Provide privacy, if desired by the individual, for all individuals when visiting with immediate family members and/or guardians, unless the person centered plans reasonably determines this is contraindicated or visitation rules are court ordered.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Provide privacy, if desired by the individual, for all individuals when visiting with immediate family members and/or guardians, unless the person centered plans reasonably determines this is contraindicated or visitation rules are court ordered.
SETTLEMENT AGREEMENT SECTION IX.D. OTHER PRACTICES AT THE FACILITY – NO INCONSISTENT PUBLICITY		Accepted		
REQUIRED TASKS				

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
69. There is marketing, recruitment and publicity regarding the Facility.		Accepted with edits	Edited for consistency with the JSA.	69. There is marketing, recruitment and publicity regarding the Facility. The State and DHS will discontinue any marketing of, <u>recruitment or publicity inconsistent with the mission of the Facility.</u>
69.1	Clearly state the facility's purpose in a bulletin to state court judges, county directors, social service supervisors and staff, county attorneys and Consumers and Families and Legal Representatives of consumers of Developmental Disabilities services.	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	Clearly state the facility's purpose in a bulletin to state court judges, county directors, social service supervisors and staff, county attorneys and Consumers and Families and Legal Representatives of consumers of Developmental Disabilities services.
70. The Facility has a mission consistent with the Settlement Agreement and this Implementation Plan.		Accepted with edits	Edited for consistency with the JSA.	70. The Facility has a mission consistent with the Settlement Agreement. and this Implementation Plan.
71. The recruitment, publicity and marketing are consistent with the mission.		Accepted with edits	Edited for consistency with the JSA.	71. The recruitment, publicity and marketing are consistent with the mission <u>of the Facility.</u>
70 to 70.1	Review the Facility's purpose to make sure that it is consistent with the Jensen Settlement Agreement and with this Implementation Plan, including the closure of MSHS-Cambridge. All recruitment, publicity and marketing of the Facility will be consistent with this Primary Action Plan.	Not accepted	This is outside the scope of the Jensen Settlement Agreement.	Review the Facility's purpose to make sure that it is consistent with the Jensen Settlement Agreement and with this Implementation Plan, including the closure of MSHS-Cambridge. All recruitment, publicity and marketing of the Facility will be consistent with this Primary Action Plan.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
SETTLEMENT AGREEMENT SECTION IX.E. OTHER PRACTICES AT THE FACILITY – POSTING REQUIREMENTS		Accepted		
REQUIRED TASKS				
72. The Facility continues to post the Health Care Bill of Rights, the name and phone number of the person within the Facility to whom inquiries about care and treatment may be directed, and a brief statement describing how to file a complaint with the Office of Health Facility Complaints, including the address and phone number of that office.		Accepted		
73. The Health Care Bill of Rights posting is in a form and with content which is understandable by residents and family/guardians.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	73. The Health Care Bill of Rights posting is in a form and with content which is understandable by residents and family/guardians.
72 to 73.1	A copy of the required Minnesota Health Care Bill of Rights and information on how to file a complaint with Office of Health Facility Complaints will be posted and explained to individuals as required by law. Information on how to contact the OHFC will be included. Apart from any Bill of Rights format which may be required by state law, an alternative version at an appropriate reading level for residents, and with clearly understandable content, will be provided to individuals, parents and guardians on admission and annually thereafter.	Accepted with edits.	Edited for consistency with JSA.	A copy of the required Minnesota Health Care Bill of Rights and information on how to file a complaint with Office of Health Facility Complaints will be posted and explained to individuals as required by law. Information on how to contact the OHFC will be included. Apart from any Bill of Rights format which may be required by state law, an alternative version at an appropriate reading level for residents, and with clearly understandable content, will be provided to individuals, parents and guardians on admission and annually thereafter. <u>The Facility shall continue to post the Health Care Bill of Rights, the name and phone number of the person within the Facility to whom inquiries about care and treatment may be directed, and a brief statement describing how to file a complaint with the Office of Health Facility Complaints, including the address and phone number of that office.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
SETTLEMENT AGREEMENT SECTION X.A. SYSTEM WIDE IMPROVEMENTS – EXPANSION OF COMMUNITY SUPPORT SVCS		Accepted with edits	The abbreviation is spelled out for clarity and consistency.	SETTLEMENT AGREEMENT SECTION X.A. SYSTEM WIDE IMPROVEMENTS – EXPANSION OF COMMUNITY SUPPORT SVCS SERVICES
REQUIRED TASKS				
74. The expansion of community services under this provision allows for the provision of assessment, triage, and care coordination to assure persons with developmental disabilities receive the appropriate level of care at the right time, in the right place, and in the most integrated setting in accordance with the U.S. Supreme Court decision in Olmstead v. L.C. , 527 U.S. 582 (1999).		Accepted		
74.1	Community Support Services (CSS) provides assessment, triage, and care coordination so that persons with developmental disabilities can receive the appropriate level of care in the most integrated setting	Accepted		
74.2	Collect and manage data to track CSS interventions noted in 74.1 and their outcomes.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Collect and manage data to track CSS interventions noted in 74.1 and their outcomes.
74.3	Provide necessary administrative/ management support within CSS to accomplish central data management and analysis.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Provide necessary administrative/ management support within CSS to accomplish central data management and analysis.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
74.4	Focus weekly "diversion" meetings to include person-centered development strategies rather than considering only existing vacancies and challenges. From this perspective: a) Review any proposed admissions to more restrictive settings and consider all possible diversion strategies; b) Review diversion strategies; c) Add active, individualized planning for all living at Cambridge; d) Add active, individualized planning/development focus to these transition discussions at Cambridge; e) Add active, individualized planning/development focus to these transition discussions which is consistent with the Olmstead Plan and includes such activities as developing a person centered RFS for anyone at Cambridge without an identified and appropriate targeted home in the community.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Focus weekly "diversion" meetings to include person-centered development strategies rather than considering only existing vacancies and challenges. From this perspective: a) Review any proposed admissions to more restrictive settings and consider all possible diversion strategies; b) Review status of transition planning for all living at Cambridge; c) Add active, individualized planning/development focus to these transition discussions which is consistent with the Olmstead Plan and includes such activities as developing a person centered RFS for anyone at Cambridge without an identified and appropriate targeted home in the community.
74.5	Weekly diversion meetings consider all individuals in danger of losing their living situation with an emphasis upon development of integrated alternatives where none are available.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Weekly diversion meetings consider all individuals in danger of losing their living situation with an emphasis upon development of integrated alternatives where none are available.
74.6	CSS has additional administrative/ managerial support to insure documentation and analysis of all diversion efforts and their impact on individuals' stability regarding living situations and behavioral/ mental health.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS has additional administrative/ managerial support to insure documentation and analysis of all diversion efforts and their impact on individuals' stability regarding living situations and behavioral/ mental health.
74.7	CSS provides continuous and on-going diversion from institutionalization and placement in less integrated settings whenever possible by establishing procedures for assessment, care planning, and providing additional services, supports and expertise for individuals in jeopardy of losing their placements or living situations due to behavioral or mental health problems.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS provides continuous and on-going diversion from institutionalization and placement in less integrated settings whenever possible by establishing procedures for assessment, care planning, and providing additional services, supports and expertise for individuals in jeopardy of losing their placements or living situations due to behavioral or mental health problems.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
74.8	The Department will collect and review data relative to admissions and transitions. This shall include, but not be limited to: a) individual's name, date of birth and county of origin; b) current residence, provider and type of residential setting, e.g. independent living; family of origin, group home, ICF/ID, etc.; c) date the individual moved to or was admitted to current residence; d) previous admissions and transitions including reason(s) for moves.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will collect and review data relative to admissions and transitions. This shall include, but not be limited to: a) individual's name, date of birth and county of origin; b) current residence, provider and type of residential setting, e.g. independent living; family of origin, group home, ICF/ID, etc.; c) date the individual moved to or was admitted to current residence; d) previous residences, providers and residential settings; e) dates of previous admissions and transitions including reason(s) for moves.
75. The State identifies, and provides long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system.		Accepted with edits	This is outside the scope of the Jensen Settlement Agreement.	The State identifies, and provides long term monitoring of, individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and to prevent multiple transfers within the system. <u>CSS will identify and provide long term monitoring of individuals with clinical and situational complexities in order to help avert crisis reactions, provide strategies for service entry changing needs, and prevent multiple transfers within the system.</u>

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
75.1	Monitor individuals who have moved into the community since December 5, 2011 by developing a community review protocol which: a) reflects the requirements of the Settlement Agreement and the Olmstead Plan; b) is predicated upon person centered planning and positive behavior supports; c) identifies quality indicators related to such areas as: overall quality of life, health, clinical treatment, crisis prevention, autonomy/ rights/ self-determination, social integration, employment/ day opportunities, staffing (numbers and required training, qualifications, competencies) d) establishes "key" indicators, the absence of any of which results in immediate follow-up; e) provides review of previous situations which resulted in moves to more restrictive living, working or educational settings; f) identifies non-negotiable services and supports necessary to maintain current appropriate living, working, educational environments; and g) is consistent with best professional practices.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Monitor individuals who have moved into the community since December 5, 2011 by developing a community review protocol which:— a) reflects the requirements of the Settlement Agreement and the Olmstead Plan;— b) is predicated upon person centered planning and positive behavior supports;— c) identifies quality indicators related to such areas as: overall quality of life, health, clinical treatment, crisis prevention, autonomy/ rights/ self-determination, social integration, employment/ day opportunities, staffing (numbers and required training, qualifications, competencies)— d) establishes "key" indicators, the absence of any of which results in immediate follow-up;— e) provides review of previous situations which resulted in moves to more restrictive living, working or educational settings;— f) identifies non-negotiable services and supports necessary to maintain current appropriate living, working, educational environments; and g) is consistent with best professional practices.
75.2	Obtain Court Monitor approval of new protocol under Task 75.1. Pilot new protocol. Obtain Court Monitor approval of any revised protocol.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Obtain Court Monitor approval of new protocol under Task 75.1. Pilot new protocol. Obtain Court Monitor approval of any revised protocol.
75.3	The Department will develop and implement an electronic data collection system which tracks the status of all corrective action plans generated by the Community Review, following up with the appropriate provider or county to ensure task completion.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will develop and implement an electronic data collection system which tracks the status of all corrective action plans generated by the Community Review, following up with the appropriate provider or county to ensure task completion.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
75.4	The Department will develop and maintain a centralized electronic incident management (IM) system to be used by all residential and rehabilitative providers serving individuals with ID/DD statewide. The IM system will be used to centralize the collection, tracking and analysis of all significant events, i.e. incidents/injuries, abuse/neglect investigations, restraints, emergencies, etc. Data collection requirements will correspond with current DHS reporting policies on incidents/injuries, medical emergencies, etc.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department wil develop and maintain a centralized electronic incident management (IM) system to be used by all residential and rehabilitative providers serving individuals with ID/DD statewide. The IM system will be used to centralize the collection, tracking and analysis of all significant events, i.e. incidents/injuries, abuse/neglect investigations, restraints, emergencies (medical and behaviorally-related). Data collection requirements will correspond with current DHS reporting policies on incidents/injuries, restraints, medical emergencies, etc.
75.4a	The IM system and reports generated from the same will be accessible by county case managers and, where applicable, Facility staff.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The IM system and reports generated from the same will be accessible by county case managers and, where applicable, Facility staff.
75.4b	Data from the IM system will be retained and made accessible for at least a rolling 5 year period.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Data from the IM system will be retained and made accessible for at least a rolling 5 year period.
75.4c	The Department will allocate the necessary financial and personnel resources required to develop, implement and adequately maintain the IM system outlined in 75.5.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will allocate the necessary financial and personnel resources required to develop, implement and adequately maintain the IM system outlined in 75.5.
75.5	The Department will establish and maintain State and regional IM quality assurance committees to review IM data on a monthly basis. This review will include: 1) identifying individuals at heightened risk and determining intervention strategies; 2) reviewing IM data by county, region and provider to determine if trends or patterns exist and necessary corrective measures; and 3) maintaining meeting minutes detailing attendance (person/title); chairperson; individual and trends identified (individual and systemic); aggregate data review; issues and trends identified (individual and systemic); corrective measures to be taken; dates corrective measures are to be completed; responsible parties, and follow-up of the previous month's action plans.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will establish and maintain State and regional IM quality assurance committees to review IM data on a monthly basis. This review will include: 1) identifying individuals at heightened risk and determining intervention strategies; 2) reviewing IM data by county, region and provider to determine if trends or patterns exist and necessary corrective measures; and 3) maintaining meeting minutes detailing attendance (person/title); chairperson; individual and aggregate data review; issues and trends identified (individual and systemic); corrective measures to be taken; dates by which such corrective measures are to be completed; responsible parties, and follow-up of the previous month's action plans.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
75.6	The Department will develop and implement an electronic data collection system which tracks the status of all corrective action plans generated by State and regional IM quality assurance committees, following up with the appropriate provider or county to ensure task completion.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Department will develop and implement an electronic data collection system which tracks the status of all corrective action plans generated by State and regional IM quality assurance committees, following up with the appropriate provider or county to ensure task completion.
76. Approximately seventy five (75) individuals are targeted for long term monitoring.		Accepted with edits	Edited for consistency with the JSA.	76. <u>CSS will identify a</u> Approximately seventy five (75) individuals are targeted for long term monitoring.
76.1	CSS will identify individuals with clinical and situational complexities who have been served by CSS and who would likely benefit from more intensive monitoring.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will identify individuals with clinical and situational complexities who have been served by CSS and who would likely benefit from more intensive monitoring.
76.2	Seventy five individuals who are significantly at-risk for institutionalization or loss of home due to behavioral or other challenges will be identified for intensive monitoring and, if needed, intervention with additional supports and services.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Seventy five individuals who are significantly at risk for institutionalization or loss of home due to behavioral or other challenges will be identified for intensive monitoring and, if needed, intervention with additional supports and services.
76.3	These 75 individuals will be identified by CSS in collaboration with lead agency case managers based upon multiple hospitalizations or other transfers within the system, serious reported incidents, repeated failed placements, other challenges identified in previous monitoring or interventions and cost of placement. The status of these individuals will be reviewed at least semi-annually by CSS.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	These 75 individuals will be identified by CSS in collaboration with lead agency case managers based upon multiple hospitalizations or other transfers within the system, serious reported incidents, repeated failed placements, other challenges identified in previous monitoring or interventions and cost of placement. The status of these individuals will be reviewed at least semi-annually by CSS.
76.4	An appendix to the community review protocol described in EC 74 will be developed for this process (with the appendix approved by the Court Monitor).	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	An appendix to the community review protocol described in EC 74 will be developed for this process (with the appendix approved by the Court Monitor).
77. CSS mobile wrap-around response teams are located across the state for proactive response to maintain living arrangements.		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
77.1	Describe locations of the 9 teams that have been established in 23 locations throughout the state.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Describe locations of the 9 teams that have been established in 23 locations throughout the state.
77.2	Provide CSS with administrative / managerial support for the 9 teams to insure sufficient data collection and central data management	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Provide CSS with administrative / managerial support for the 9 teams to insure sufficient data collection and central data management
77.3	Document responses from CSS to individual's satisfaction sureys.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Document responses from CSS to individual's satisfaction sureys.
78. CSS arranges a crisis intervention within three (3) hours from the time the parent or legal guardian authorizes CSS' involvement.		Accepted		
78.1	Strategically establish nine teams in 23 locations throughout the State to respond within 3 hours of a request for service. CSS admissions contacts the person's case manager as soon as they learn of a potential or actual crisis situation.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Strategically establish nine teams in 23 locations throughout the State to respond within 3 hours of a request for service. CSS admissions contacts the person's case manager as soon as they learn of a potential or actual crisis situation.
78.2	Streamline authorization procedure to facilitate CSS' response to reported crises as quickly as possible.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Streamline authorization procedure to facilitate CSS' response to reported crises as quickly as possible.
79. CSS partners with Community Crisis Intervention Services to maximize support, complement strengths, and avoid duplication.		Accepted		
79.1	Continue ongoing collaboration with the Metro Crisis Coordination Program (MCCP), whose intent is to provide a crisis safety net range of services for persons with developmental disabilities or related conditions; MCCP is a collaborative effort of seven counties in the Twin Cities metropolitan area. (metrocrisis.org)	Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
79.2	Continue collaboration with the local mental health authorities (LMHAs) (also known as community mental health centers) which are authorized by state Statute to provide services to a specific geographic area of the state. LMHAs can be available to county case managers directly or via CSS if necessary.	Accepted		
79.3	Continue collaborations with county boards, which are statutorily responsible for a system of locally available and affordable adult mental health services, including 24/7 crisis intervention. [MN Stat §245.466]. Enforce cooperation by country boards as needed.	Accepted		
79.4	CSS will continue to serve people in counties without sufficient appropriate services.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will continue to serve people in counties without sufficient appropriate services.
79.5	Continue quarterly meetings with MCCP.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Continue quarterly meetings with MCCP.
80. CSS provides augmentative training, mentoring and coaching.		Accept		
80.1	CSS Staff will offer and provide training, as requested or determined to be lacking, on coaching, mentoring and Augmentative training.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS Staff will offer and provide training, as requested or determined to be lacking, on coaching, mentoring and Augmentative training.
80.2	CSS will update training manual as necessary.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will update training manual as necessary.
80.3	CSS will have sufficient administrative/ managerial staff to track/analyze training as well as mentoring and coaching services provided.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will have sufficient administrative/ managerial staff to track/analyze training as well as mentoring and coaching services provided.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
81. CSS provides staff at community based facilities and homes with state of the art training encompassing person centered thinking, multi-modal assessment, positive behavior supports, consultation and facilitator skills, and creative thinking.		Accepted		
81.1	CSS determines locations for teams and/or home-based staff. CSS creates position descriptions that identify the necessary knowledge, skills, and abilities. CSS hires or trains staff with necessary qualifications and skills to provide training. See EC 61 and 62 regarding staff training.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS determines locations for teams and/or home-based staff. CSS creates position descriptions that identify the necessary knowledge, skills, and abilities. CSS hires or trains staff with necessary qualifications and skills to provide training. See EC 61 and 62 regarding staff training.
81.2	CSS insures that all vacant trainer positions are filled as efficiently as possible and with appropriately qualified staff.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS insures that all vacant trainer positions are filled as efficiently as possible and with appropriately qualified staff.
81.3	Training curricula are reviewed routinely to insure consistency with best practices	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Training curricula are reviewed routinely to insure consistency with best practices
82. CSS' mentoring and coaching as methodologies are targeted to prepare for increased community capacity to support individuals in their community.		Accepted		
82.1	CSS will mentor and develop coaches in the community with a vision to support individuals in communities. (12/31/12)	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will mentor and develop coaches in the community with a vision to support individuals in communities. (12/31/12)
82.2	Track success of mentoring / coaching via data regarding such issues as frequency of need for out of home crisis intervention, number of transfers to more restrictive placements, frequency of behaviors dangerous to self or others, frequency of interactions with the criminal justice system, sudden increases in usage of psychotropic medications.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Track success of mentoring / coaching via data regarding such issues as frequency of need for out of home crisis intervention, number of transfers to more restrictive placements, frequency of behaviors dangerous to self or others, frequency of interactions with the criminal justice system, sudden increases in usage of psychotropic medications.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
82.3	Provide additional administrative/ managerial support to CSS sufficient to enable timely and complete data collection, entry and analysis.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Provide additional administrative/ managerial support to CSS sufficient to enable timely and complete data collection, entry and analysis.
83. An additional fourteen (14) full time equivalent positions (15 FTE) were added between February 2011 and June 30, 2011, configured as follows: Two (2) Behavior Analyst 3 positions; One (1) Community Senior Specialist 3; (2) Behavior Analyst 3 positions; and Five (5) Behavior Management Assistants		Accepted with edits	Edited for consistency with the JSA.	83. An additional fourteen (14) full time equivalent positions (15 FTE) were added between February 2011 and June 30, 2011, configured <u>The proposed positions are</u> as follows: Two (2) Behavior Analyst 3 positions; One (1) Community Senior Specialist 3; (2) Behavior Analyst 3; (2) Behavior Analyst 1; Five (5) Social Worker Specialist positions; and Five (5) Behavior Management Assistants
83.1	Review position descriptions, update as necessary.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Review position descriptions, update as necessary.
83.2	Work with DHS Human Resources on advertising positions.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Work with DHS Human Resources on advertising positions.
83.3	Hire these additional staff, and fill any vacancies in functionally equivalent positions, with the required qualifications. As necessary to fulfill this Implementation Plan, add additional positions.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Hire these additional staff, and fill any vacancies in functionally equivalent positions, with the required qualifications. As necessary to fulfill this Implementation Plan, add additional positions.
84. None of the identified positions are vacant.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	84. None of the identified positions are vacant.
84.1	Fill as quickly as possible and with qualified applicants all vacancies in these and other functionally equivalent positions. Provide sufficient salary, bonus and other structures and incentives to ensure that the positions are filled.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Fill as quickly as possible and with qualified applicants all vacancies in these and other functionally equivalent positions. Provide sufficient salary, bonus and other structures and incentives to ensure that the positions are filled.
84.2	CSS will keep all of the required and functionally equivalent positions filled.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	CSS will keep all of the required and functionally equivalent positions filled.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
84A. All staff who hold the title of Behavior Analyst have the requisite educational background, experience, and credentials recognized by national associations such as the Association of Professional Behavior Analysts.		Accepted with edits	The text is edited for consistency with the Jensen Settlement Agreement.	84A. All <u>Facility</u> staff who hold the title of Behavior Analyst have the requisite educational background, experience, and credentials recognized by national associations such as the Association of Professional Behavior Analysts.
	<u>84A.1</u> DHS will hire only behavioral analysts who meet the requirements of the settlement agreement and accepted professional standards.	Accepted with edits	The text is edited for consistency with the Jensen Settlement Agreement.	DHS will hire only behavioral analysts <u>at the Facility</u> who meet the requirements of the <u>Jensen Settlement Agreement</u> and accepted professional standards.
SETTLEMENT AGREEMENT SECTION X.B. SYSTEM WIDE IMPROVEMENTS – OLMSTEAD PLAN		Accepted		
REQUIRED TASKS				
85. An Olmstead Planning Committee was established by February 5, 2012		Accepted		
86. The Committee’s public recommendations were issued by October 5, 2012.		Accepted		
87. By August 5, 2013, the State and the Department developed and implemented a comprehensive Olmstead plan that uses measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs and in the "Most Integrated Setting," and which is consistent and in accord with the U.S. Supreme Court's decision in <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
88. The Olmstead Planning Committee is comprised of no less than fifteen (15) members with demonstrated understanding of the spirit and intent of the Olmstead decision, best practices in the field of disabilities, and a longstanding commitment to systemic change that respects the human and civil rights of people with disabilities, and with the required stakeholder representation.		Accepted		
85 to 88.1	The Olmstead Plan required by EC 87 is separately addressed; it is subject to the Court's review and approval pursuant to the Order of August 28, 2013 and the Order of December 5, 2011 adopting the Settlement Agreement.	Accepted		
SETTLEMENT AGREEMENT SECTION X.C. SYSTEM WIDE IMPROVEMENTS – RULE 40		Accepted		
REQUIRED TASKS				
89. By February 5, 2012, the Department convened a Rule 40 Advisory Committee with the designated membership approved by the parties.		Accepted		
90. The function, operations and the product, of the Committee are to study, review and advise the Department on how to modernize Rule 40 to reflect current best practices, including, but not limited to the use of positive and social behavioral supports, and the development of placement plans consistent with the principle of the "most integrated setting" and "person centered planning, and development of an 'Olmstead Plan'" consistent with the U.S. Supreme Court's decision in Olmstead v. L.C ., 527 U.S. 582 (1999).		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
91. The Committee's review of best practices included the Arizona Department of Economic Security, Division of Developmental Disabilities, Policy and Procedures Manual, Policy 1600 Managing Inappropriate Behaviors.		Accepted		
	92. The Committee issued a public notice of intent to undertake administrative rule making by February 5, 2012.	Accepted		
	93. DHS did not seek a waiver of Rule 40 for the Facility.	Accepted		
89 - 93.1	The Rule 40 Advisory Committee recommendations were fully accepted by the Department of Human Services. The modernization of Rule 40 and adoption of the replacement rule is separately addressed; it is subject to the Court's review and approval pursuant to the Order of August 28, 2013 and the Order of December 5, 2011 adopting the Settlement Agreement.	Accepted with edits	Edited for consistency with the JSA.	The Rule 40 Advisory Committee recommendations were fully accepted <u>received</u> by the Department of Human Services. The modernization of Rule 40 and adoption of the replacement rule is separately addressed; it is subject to the Court's review and approval pursuant to the Order of August 28, 2013 and the Order of December 5, 2011 adopting the Settlement Agreement.
SETTLEMENT AGREEMENT SECTION X.D. SYSTEM WIDE IMPROVEMENTS – MINNESOTA SECURITY HOSPITAL		Accepted		
REQUIRED TASKS				
94. Beginning at least by February 5, 2012, the State takes best efforts to ensure that there are no transfers to or placements at the Minnesota Security Hospital of persons committed solely as a person with a developmental disability.		Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
95. Beginning no later than July 1, 2011, there are no transfers or placements of persons committed solely as a person with a developmental disability to the Minnesota Security Hospital (subject to the exceptions in the provision).		Accepted		
95.1	Before any admission to Minnesota Security Hospital, each proposed admission will be reviewed by Minnesota Security Hospital Admissions officials, by DHS Community Support Services, and also by DHS Jensen Implementation Team to assure that no persons with a sole diagnosis of developmental disability will be transferred or placed at the Minnesota Security Hospital.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Before any admission to Minnesota Security Hospital, each proposed admission will be reviewed by Minnesota Security Hospital Admissions officials, by DHS Community Support Services, and also by DHS Jensen Implementation Team to assure that no persons with a sole diagnosis of developmental disability will be transferred or placed at the Minnesota Security Hospital.
95.2	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers, that, pursuant to the order of the federal court approving this Plan, no person with this Plan, no person with a sole diagnosis of developmental disability may be transferred or placed at the Minnesota Security Hospital. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers, that, pursuant to the order of the federal court approving this Plan, no person with a sole diagnosis of developmental disability may be transferred or placed at the Minnesota Security Hospital. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.
95.2	The Jensen Implementation Team will document any proposed transition to or placement at MSH of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	The Jensen Implementation Team will document any proposed transition to or placement at MSH of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
96. There has been no change in commitment status of any person originally committed solely as a person with a developmental disability without proper notice to that person's parent and/or guardian and a full hearing before the appropriate adjudicative body.		Accepted		
96.1	The Jensen Implementation Team will document any changes in commitment status of a person originally committed solely as a person with a developmental disability. The documentation will include any notifications and a description of any hearing, and copies of petitions and other papers submitted in connection with notification and/or hearing.	Accepted with edits	Text is edited to reflect how the system is set up to operate. There is no need to duplicate this task - that could cause unnecessary confusion and complications.	The Jensen Implementation Team MSH will document any changes in commitment status of a person originally committed solely as a person with a developmental disability. The documentation will include any notifications and a description of any hearing, and copies of petitions and other papers submitted in connection with notification and/or hearing.
97. Beginning no later than December 1, 2011, all persons presently confined at Minnesota Security Hospital who were committed solely as a person with a developmental disability and who were not admitted with other forms of commitment or predatory offender status set forth in paragraph 1, above, are transferred by the Department to the most integrated setting consistent with <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).		Accepted		
97.1	Provide current census, and identifying information, of any people living at MSH committed solely as a person with a developmental disability.	Accepted		
97.2	Provide documentation of any transition/ placement from MSH since 12/5/2011 of any persons committed solely as a person with a developmental disability. Any such transfer/ placement shall be to the most integrated setting consistent with <i>Olmstead v. L.C.</i> , 527 U.S. 581 (1999).	Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
SETTLEMENT AGREEMENT SECTION X.E. SYSTEM WIDE IMPROVEMENTS – ANOKA METRO REGIONAL TREATMENT CENTER		Accepted		
REQUIRED TASKS				
98. Beginning no later than January 5, 2012, all AMRTC residents committed solely as a person with a developmental disability and who do not have an acute psychiatric condition are transferred from AMRTC to the most integrated setting consistent with Olmstead v. L.C. , 527 U.S. 581 (1999).		Accepted		
98.1	Before any admission to Anoka Metro Regional Treatment Center, each proposed admission will be reviewed by Anoka Metro Regional Treatment Center officials, by DHS Community Support Services, and also by DHS Jensen Implementation Team to assure that no persons with a sole diagnosis of developmental disability will be transferred or placed at the Anoka Metro Regional Treatment Center.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	Before any admission to Anoka Metro Regional Treatment Center, each proposed admission will be reviewed by Anoka Metro Regional Treatment Center officials, by DHS Community Support Services, and also by DHS Jensen Implementation Team to assure that no persons with a sole diagnosis of developmental disability will be transferred or placed at the Anoka Metro Regional Treatment Center.
98.2	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers, that, pursuant to the order of the federal court approving this Plan, no person with a sole diagnosis of developmental disability may be transferred or placed at the Anoka Metro Regional Treatment Center. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	DHS will communicate to all County Attorneys and state courts responsible for commitments, and to all county directors and case managers, that, pursuant to the order of the federal court approving this Plan, no person with a sole diagnosis of developmental disability may be transferred or placed at the Anoka Metro Regional Treatment Center. Such communication will be made from the Commissioner within 30 days of the order approving this plan and, in addition, by DHS staff who become aware of any such proposed commitment or transfer.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
98.2	95.2 The Jensen Implementation Team will document any proposed transition to or placement at Anoka Metro Regional Treatment Center of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.	Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	95.2 The Jensen Implementation Team will document any proposed transition to or placement at Anoka Metro Regional Treatment Center of any person committed solely as a person with a developmental disability, including but not limited to any diversion efforts prior to transfer or placement and any subsequent placements.
SETTLEMENT AGREEMENT SECTION X.F. SYSTEM WIDE IMPROVEMENTS – LANGUAGE		Accepted		
REQUIRED TASKS				
99.	The term “mental retardation” has been replaced with “developmental disabilities” in any DHS policy, bulletin, website, brochure, or other publication.	Accepted		
99.1	All references to outdated terminology used to describe persons with Developmental Disabilities have been updated with clarification on the Department's use of people first language inserted in areas where historical documents are found. In addition to, or in lieu of, updating each webpage, DHS shall maintain the previously established "disclaimer" language to explain the presence in historical documents of outdated terminology.	Accepted		
100.	DHS drafted and submitted a bill for the Minnesota Legislature that will require the replacement of terms such as "insane," "mentally incompetent," "mental deficiency," and other similar inappropriate terms that appear in Minnesota statutes and rules.	Accepted		

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
100.1	Completed. On the removal of inappropriate terms that appear in Minnesota statutes and Rules, see 2013 legislation at Chapter 62 and Chapter 59, Article 3, section 21 signed by the Governor on May 16, 2013. This legislation will not be repealed or replaced.	Accepted		
Closure of MSHS-Cambridge, and Replacement with Quality Community Services		Not Accepted	This is outside the scope of the Jensen Settlement Agreement and for measuring compliance with the JSA. However, pursuant to the Court Order of August 28, 2013, we respectfully request that the Cambridge Implementation Plan submitted on October 15, 2013 be accepted in whole or with revisions as appropriate.	Closure of MSHS-Cambridge, and Replacement with Quality Community Services
101. MSHS-Cambridge will be closed, with the need for any successor/replacement facilities based on a comprehensive written needs assessment.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement.	101. MSHS-Cambridge will be closed, with the need for any successor/replacement facilities based on a comprehensive written needs assessment.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
101.1	Prior to the opening of more than 2 Cambridge replacement sites or taking any steps which would obligate DHS to open more than 2 Cambridge replacement sites, and/or prior serving a total of more than 4 people within the replacement sites, conduct a comprehensive needs assessment determining if further facilities are necessary. This written needs assessment must include: a) extensive analysis of the flow of referrals to the Cambridge site and any replacement site over the past year; b) consideration of where those diverted from the service have been served; and c) capacity of community providers and existing services to meet the needs of people in crisis. The needs assessment will also include input from community providers, CSS, AMRTC, county programs, and existing DHS services, and advocacy groups, including self-advocates.	Not Accepted	See Header to 101 above.	Prior to the opening of more than 2 Cambridge replacement sites or taking any steps which would obligate DHS to open more than 2 Cambridge replacement sites, and/or prior serving a total of more than 4 people within the replacement sites, conduct a comprehensive needs assessment determining if further facilities are necessary. This written needs assessment must include: a) extensive analysis of the flow of referrals to the Cambridge site and any replacement site over the past year; b) consideration of where those diverted from the service have been served, and how successfully they have been served; and c) capacity of community providers and existing services to meet the needs of people in crisis. The needs assessment will also include input from community providers, CSS, AMRTC, county programs, and existing DHS services, and advocacy groups, including self-advocates.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
101.2	Prior to the opening of more than 2 Cambridge replacement sites or taking any steps which would obligate DHS to open more than 2 Cambridge replacement sites, and/or prior serving a total of more than 4 people within the replacement sites, conduct an analysis of other possible "temporary crisis" possibilities for people who need a temporary residential service due to behavioral crisis. Among the options which will be considered are, for example, highly specialized family foster care, respite identified within existing residential programs, "quick response respite" operated within rental apartments or scattered apartment sites as well as reinforcing the capacity of statewide existing respite services.	Not Accepted	See Header to 101 above.	Prior to the opening of more than 2 Cambridge replacement sites or taking any steps which would obligate DHS to open more than 2 Cambridge replacement sites, and/or prior serving a total of more than 4 people within the replacement sites, conduct an analysis of other possible "temporary crisis" possibilities for people who need a temporary residential service due to behavioral crisis. Among the options which will be considered are, for example, highly specialized family foster care, respite identified within existing residential programs, "quick response respite" operated within rental apartments or scattered apartment sites as well as reinforcing the capacity of statewide existing respite services.
101.3	Complete a Cambridge Relocation Plan consistent with the requirements of this Implementation Plan, Evaluation Criteria 1 through 100.	Not Accepted	See Header to 101 above.	Complete a Cambridge Relocation Plan consistent with the requirements of this Implementation Plan, Evaluation Criteria 1 through 100.
101.4	Submit the Cambridge Relocation Plan to the Court for review and approval. Among other things, the plan will include tasks and deadlines, will define the specialty services to be provided, will describe how protections, services and supports will be ensured both structurally and through individual program plans, will define measurable outcomes and goals, and will rename MSHS-Cambridge.	Not Accepted	See Header to 101 above.	Submit the Cambridge Relocation Plan to the Court for review and approval. Among other things, the plan will include tasks and deadlines, will define the specialty services to be provided, will describe how protections, services and supports will be ensured both structurally and through individual program plans, will define measurable outcomes and goals, and will rename MSHS-Cambridge.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
101.5	Frequent and on-going progress updates will be provided to staff, individuals, and stakeholders on the Cambridge replacement plan.	Not Accepted	See Header to 101 above.	Frequent and on-going progress updates will be provided to staff, individuals, and stakeholders on the Cambridge replacement plan.
101.6	Consult Agency Communication Specialist and others on communication planning. Develop and implement a communication plan.	Not Accepted	See Header to 101 above.	Consult Agency Communication Specialist and others on communication planning. Develop and implement a communication plan.
101.7	Submit to the Legislature a legislative placeholder to assist with any obstacles encountered.	Not Accepted	See Header to 101 above.	Submit to the Legislature a legislative placeholder to assist with any obstacles encountered.
102. Identified deficiencies in MSHS-Cambridge operations will be corrected.		Not Accepted	This is outside the scope of the Jensen Settlement Agreement and for measuring compliance with the JSA. However, the Department did respond to the Court Monitor's Compliance Report on June 28, 2013 with an Action Plan. W	102. Identified deficiencies in MSHS-Cambridge operations will be corrected.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
102.1	Correct all deficiencies identified in the Court Monitor’s June 11, 2013 Status Report on Compliance and in his September 23, 2013 Recommendation to the Parties: Transition Planning and the Re-Purposing of MSHS.	Not Accepted	See 102 above.	Correct all deficiencies identified in the Court Monitor’s June 11, 2013 Status Report on Compliance and in his September 23, 2013 Recommendation to the Parties: Transition Planning and the Re-Purposing of MSHS.
103.	Staff hired for new positions as well as to fill vacancies, will only be staff who have significant experience in community based, crisis, behavioral and person centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment.	Not Accepted	See Header to 101 above.	103. Staff hired for new positions as well as to fill vacancies, will only be staff who have significant experience in community based, crisis, behavioral and person centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment. E350

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
103.1	Hire, for new positions as well as to fill vacancies, only staff who have significant experience in community based, crisis, behavioral and person centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment. Revise job descriptions as necessary to reflect these requirements.	Not Accepted	See Header to 101 above.	Staff hired for new positions as well as to fill vacancies, will only be staff who have significant experience in community based, crisis, behavioral and person centered services and whose qualifications are consistent with the Settlement Agreement and currently accepted professional standards. Staff reassigned from MSHS-Cambridge will receive additional orientation training and supervision to meet these qualifications within 6 months of reassignment.
103.2	Work with Human Resources to expedite hiring in various locations throughout the state(to follow our services).	Not Accepted	See Header to 101 above.	Work with Human Resources to expedite hiring as needed in various MSHS-Cambridge community locations throughout the state (to follow our services).

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
103.3.	Fill 2 new CRS Positions, as well as vacancies in any functionally equivalent positions, with staff whose qualifications and experience are consistent with the Settlement Agreement and the criteria listed in EC 57.5.	Not Accepted	See Header to 101 above.	Fill 2 new CRS Positions, as well as vacancies in any functionally equivalent positions, with staff whose qualifications and experience are consistent with the Settlement Agreement and the criteria listed in EC 57.5.
103.4	Pursue additional Behavior Analyst Positions and hire, for these and any other functionally equivalent positions, only staff with qualifications consistent with EC 103 and 103.1 and current acceptable professional standards. Revise job descriptions as necessary to reflect these requirements.	Not Accepted	See Header to 101 above.	Pursue additional Behavior Analyst Positions and hire, for these and any other functionally equivalent positions, only staff with qualifications consistent with EC 103 and 103.1 and current acceptable professional standards. Revise job descriptions as necessary to reflect these requirements.
103.5	Review/Revise Position Descriptions to be consistent with the Settlement Agreement and current accepted professional standards.	Not Accepted	See Header to 101 above.	Review/Revise Position Descriptions to be consistent with the Settlement Agreement and current accepted professional standards.
103-6	Define Staffing/Management Structure: conceive base staffing levels and potential auxiliary staffing needs, finalize staffing/management structure, finalize organizational chart.	Not Accepted	See Header to 101 above.	Define Staffing/Management Structure: conceive base staffing levels and potential auxiliary staffing needs, finalize staffing/management structure, finalize organizational chart.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
103.7	Establish Vocational Staff Positions and hire only staff whose qualifications, experience and training (including post hiring) are consistent with the criteria listed in EC 57.	Not Accepted	See Header to 101 above.	Establish Vocational Staff Position/s and hire only staff whose qualifications, experience and training (including post hiring) are consistent with the criteria listed in EC 57 best practices.
103.8	Increase flexibility of staffing to enhance Person Centered Services, in accordance with the provisions of ECs 3, 56 through 60 and 107.	Not Accepted	See Header to 101 above.	Increase flexibility of staffing to enhance Person-Centered Services, in accordance with the provisions of ECs 3, 56 through 60 and 107.
103.9	Enhance diversion as well as transition efforts through an additional staff position to assist with housing, employment and other related areas.	Not Accepted	See Header to 101 above.	Enhance diversion as well as transition efforts through an additional staff position to assist with housing, employment and other related areas.
104. Criteria for future sites are that a Comprehensive Needs Assessment supports that this service is needed and best met by creation of 3-4 homes , and subject to the assessments required in EC 101 above.		Not Accepted	See Header to 101 above.	104. Criteria for future sites are that a Comprehensive Needs Assessment supports that this service is needed and best met by creation of 3-4 homes , and subject to the assessments required in EC 101 above.
104.1	Review database of where most of our referrals reside to strategize location of future sites; create regionalized temporary housing	Not Accepted	See Header to 101 above.	Review database of where most of our referrals reside to strategize location of future sites; create regionalized temporary housing

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
104.2	For the purposes of short term/crisis residential services, and for short term/residential services (both repurposing existing MSOCS homes and also Leasing Homes, acquire 3 to 4 homes for the initial relocation of Cambridge, provided Comprehensive Needs Assessment supports that this service is needed and best met by creation of 3-4 homes , and subject to the assessments required in EC 101 above.	Not Accepted	See Header to 101 above.	For the purposes of short term/crisis residential services, and for short term/residential services (both repurposing existing MSOCS homes and also Leasing Homes, acquire 3 to 4 homes for the initial relocation of Cambridge, provided Comprehensive Needs Assessment supports that this service is needed and best met by creation of 3-4 homes , and subject to the assessments required in EC 101 above.
105. Staff will be provided laptops, vehicles and other devices, and office space, to facilitate mobility.		Not Accepted	See Header to 101 above.	105. Staff will be provided laptops, vehicles and other devices, and office space, to facilitate mobility.
105.1	For mobile staff and management, provide laptops, vehicles, and mobile communication devices.	Not Accepted	See Header to 101 above.	For mobile staff and management, provide laptops, vehicles, and mobile communication devices.
105.2	Provide satellite office space for staff.	Not Accepted	See Header to 101 above.	Provide satellite office space for staff.
106. Provide integrated vocational options and customized employment.		Not Accepted	See Header to 101 above.	106. Provide integrated vocational options and customized employment.
106.1	Obtain from other organizations for integrated vocational referrals.	Not Accepted	See Header to 101 above.	Obtain <u>resources as needed</u> from other organizations for integrated vocational referrals to coordinate pre-vocational and vocational experiences in the community.
106.2	Expand integrated vocational options (including work experience and training if individually appropriate) through person centered exploration.	Not Accepted	See Header to 101 above.	Expand integrated vocational options (including work experience and training if individually appropriate) through person centered exploration.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
106.3	Utilize customized employment framework consistent with best practices. Create Vocational Menu, Choices, " Informed Choice," and "honor each resident's choice-", if consistent with best practices in customized employment, and conducted in an integrated, individualized fashion.	Not Accepted	See Header to 101 above.	Utilize customized employment framework consistent with best practices. Create Vocational Menu, Choices, " Informed Choice," and "honor each resident's choice-"; if consistent with best practices in customized employment, and conducted in an integrated, individualized fashion.
106.4	Hire sufficient vocational staff.	Not Accepted	See Header to 101 above.	Hire sufficient vocational staff.
106.5	Maintain and expand Job Club and "I Want to Work" employment objectives as options to be considered during person centered employment exploration. See 10.3.	Not Accepted	See Header to 101 above.	Maintain and expand Job Club and "I Want to Work" employment objectives, as options to be considered during person centered employment exploration. See 10.3.
107. All requirements in this Implementation Plan are fully met for each individual served in the area of Person Centered Planning.		Not Accepted	See Header to 101 above.	107. All requirements in this Implementation Plan are fully met for each individual served in the area of Person Centered Planning.
107.1	All requirements in this Implementation Plan are fully met for each individual served in the area of Person Centered Planning.	Not Accepted	See Header to 101 above.	All requirements in this Implementation Plan are fully met for each individual served in the area of Person Centered Planning.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
108. All requirements in this Implementation Plan are fully met for each individual served in the area of Transition Planning.		Not Accepted	See Header to 101 above.	108. All requirements in this Implementation Plan are fully met for each individual served in the area of Transition Planning.
108.1	All requirements in this Implementation Plan are fully met for each individual served in the area of Transition Planning.	Not Accepted	See Header to 101 above.	All requirements in this Implementation Plan are fully met for each individual served in the area of Transition Planning.
108.2	In all forms and processes, all discharge language is changed to "transitional" language.	Not Accepted	See Header to 101 above.	In all forms and processes, all discharge language is changed to "transitional" language.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
108.3	Once the most integrated residential setting is identified, work with individuals and their teams to implement the transitional portfolio to assure a good quality of life for the individual. The State shall provide adequate and appropriate protections, supports, and services.	Not Accepted	See Header to 101 above.	Once the most integrated residential setting is identified, work with individuals and their teams to implement the transitional portfolio to assure a good quality of life for the individual. The State shall provide adequate and appropriate protections, supports, and services.
109. Community Support Services will be integrated with all DHS services, based upon strong regional networks and community connections.		Not Accepted	See Header to 101 above.	109. Community Support Services will be integrated with all DHS services, based upon strong regional networks and community connections.
109.1	Integrate all DHS services under this Implementation Plan closely with CSS.	Not Accepted	See Header to 101 above.	Integrate all DHS services under this Implementation Plan closely with CSS.
109.2	Meet with CSS: review role in pre and post services.	Not Accepted	See Header to 101 above.	Meet with CSS: review role in pre and post services.
109.3	CSS will provide augmentative service supports, consult, and training to those supporting the person. See also ECs 80, 81,82.	Not Accepted	See Header to 101 above.	CSS will provide augmentative service supports, consult, and training to those supporting the person. See also ECs 80, 81,82.
109.4	Create stronger diversion supports through CSS' increased staffing and centralized data analysis related to effectiveness of mentoring/ coaching. See EC 82.	Not Accepted	See Header to 101 above.	Create stronger diversion supports through CSS' increased staffing and centralized data analysis related to effectiveness of mentoring/ coaching. See EC 82.
109.5	Provide supplemental staffing to CSS to strengthen diversion services. See ECs 80 through 84 related to staffing and monitoring the impact of CSS services.	Not Accepted	See Header to 101 above.	Provide supplemental staffing to CSS to strengthen diversion services. See ECs 80 through 84 related to staffing and monitoring the impact of CSS services.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
109.6	Create with CSS statewide resources based upon strong regional networks and community connections.	Not Accepted	See Header to 101 above.	Create with CSS statewide resources based upon strong regional networks and community connections.
109.7	Clarify relationships and communication strategies between DSD, DHS, CMHS, DCT, SOS, CBS, CSS, CPN, MSOCS (and successor divisions/departments) to facilitate regional and statewide networking.	Not Accepted	See Header to 101 above.	Clarify relationships and communication strategies between DSD, DHS, CMHS, DCT, SOS, CBS, CSS, CPN, MSOCS (and successor divisions/departments) to facilitate regional and statewide networking.
110. All sites, programs and services established or utilized under this Implementation Plan shall be licensed as required by state law.		Not Accepted	See Header to 101 above.	All sites, programs and services established or utilized under this Implementation Plan shall be licensed as required by state law.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
110.1	All sites, programs and services established or utilized under this Implementation Plan shall be licensed as required by state law.	Not Accepted	See Header to 101 above.	All sites, programs and services established or utilized under this Implementation Plan shall be licensed as required by state law.
111.	Cambridge admissions are closed, new sites ar developed only as needed, and current Cambridge residents transition to permanent community homes.	Not Accepted	See Header to 101 above.	111 Cambridge admissions are closed, new sites ar developed only as needed, and current Cambridge residents transition to permanent community homes.
111.1	The physical sites for Community Sites A & B would be modified /repaired/ prepared for occupancy, if Comprehensive Needs Assessment determines the need for Community Site B	Not Accepted	See Header to 101 above.	The physical sites for Community Sites A & B would be modified /repaired/ prepared for occupancy, if Comprehensive Needs Assessment determines the need for Community Site B.
111.2	If the Comprehensive Needs Assessment determines additional group living arrangements are needed, Community Sites C & D would be modified/repaired/prepared for occupancy	Not Accepted	See Header to 101 above.	If the Comprehensive Needs Assessment determines additional group living arrangements are needed, Community Sites C & D would be modified/repaired/prepared for occupancy
111.3	New admissions to Cambridge will stop and divert to new home(s) when A and/or B are established, depending on location.	Not Accepted	See Header to 101 above.	New admissions to Cambridge will stop and divert to new home(s) when A and/or B are established, depending on location.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
111.4	Individuals currently supported at Cambridge will transition to permanent community based homes and supports. (not to the new sites being developed under this Plan for temporary and crisis homes). Individuals currently supported at Cambridge will not move more than once.	Not Accepted	See Header to 101 above.	Individuals currently supported at Cambridge will transition to permanent community based homes and supports. (not to the new sites being developed under this Plan for temporary and crisis homes). Individuals currently supported at Cambridge will not move more than once.
112.	Training plan for community staff strongly emphasizes providing tools and support services in a person's home as quickly as possible. Staff will also be trained in delivering community based programs and processes.	Not Accepted	See Header to 101 above.	112. Training plan for community staff strongly emphasizes providing tools and support services in a person's home as quickly as possible. Staff will also be trained in delivering community based programs and processes.
112.1	All staff training is consistent with the requirements of Jensen Settlement Evaluation Criteria 61,62,64, related tasks and any other related Evaluation Criteria. Training for staff strongly emphasizes providing tools and support services in a person's home as quickly as possible. Staff will also be trained in delivering community based programs and processes.	Not Accepted	See Header to 101 above.	All staff training is consistent with the requirements of Jensen Settlement Evaluation Criteria 61,62,64, related tasks and any other related Evaluation Criteria. Training for staff strongly emphasizes providing tools and support services in a person's home as quickly as possible. Staff will also be trained in delivering community based programs and processes.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
112.2	245D Training, and training under the "Rule 40 Plan" will be completed by all staff involved in serving individuals in the replacement facilities, services, protections and supports.	Not Accepted	See Header to 101 above.	245D Training, and training under the "Rule 40 Plan" will be completed by all staff involved in serving individuals in the replacement facilities, services, protections and supports.
112.3	Training is planned and scheduled for all transitional phases of the relocation, emphasizing support to staff and services before, during, and after the move.	Not Accepted	See Header to 101 above.	Training is planned and scheduled for all transitional phases of the relocation, emphasizing support to staff and services before, during, and after the move.
113. Create and implement a plan (and submit to the Court for review and approval) that would maintain therapeutic follow-up with persons served to provide a safety network, as needed, to help prevent re-institutionalization and other transfers to more restrictive settings.		Not Accepted	See Header to 101 above.	113. Create and implement a plan (and submit to the Court for review and approval) that would maintain therapeutic follow-up with persons served to provide a safety network, as needed, to help prevent re-institutionalization and other transfers to more restrictive settings.
113.1	Create a communication system that provides coordinated long term follow-up to persons served by DHS and CSS in an effort to track and monitor the transition process. Person centered documentation derived from this communication system will provide valuable information to the long term monitoring process described in ECs 75 and 76.	Not Accepted	See Header to 101 above.	Create a communication system that provides coordinated long term follow-up to persons served by DHS and CSS in an effort to track and monitor the transition process. Person centered documentation derived from this communication system will provide valuable information to the long term monitoring process described in ECs 75 and 76.

COMPREHENSIVE PLAN OF ACTION Part 1		DHS Response	Rationale	Proposed Changes
113.2	Create a plan (and submit to the Court for review and approval) that would maintain therapeutic follow-up with persons served to provide a safety network, as needed, to help prevent re-institutionalization and other transfers to more restrictive settings.	Not Accepted	See Header to 101 above.	Create a plan (and submit to the Court for review and approval) that would maintain therapeutic follow-up with persons served to provide a safety network, as needed, to help prevent re-institutionalization and other transfers to more restrictive settings.

COMPREHENSIVE PLAN OF ACTION – PART II (Rule 40 Modernization)

Minnesota Department of Human Services’ Response

The Department respectfully does not accept the use of Part II of the Draft Plan as proposed as a compliance monitoring mechanism for the Jensen Settlement Agreement, to the extent that the criteria and tasks as they relate to the modernization of Rule 40 are beyond the scope of the Jensen Settlement Agreement. Additionally, several of the criteria and tasks proposed are outside of the Department’s legal authority, making such action impossible or unlawful.

While the Department has made additional promises to adopt the recommendations of the Rule 40 Advisory Committee as they relate to programs and services licensed or certified by the Department, these promises were made separate and apart from the Jensen Settlement Agreement. Additionally, it is concerning that much of the Draft Plan does not consider or reference the recommendations of the Rule 40 Advisory Committee.

The Department proposes, in lieu of Part II of the Draft Plan: (i) using the Department’s previous draft submission with additional revision, as appropriate; or (ii)(a) allowing the rule-making process, as it relates to the modernization of Rule 40, to proceed , and (b) incorporating criteria, tasks, and collective efforts, as applicable to the implementation of Minnesota’s Olmstead Plan, under Part III.