

Olmstead Subcabinet Meeting Minutes

Monday, March 25, 2019 • 3:00 p.m. to 4:30 p.m.

Minnesota Housing – Lake Superior Conference Room, 400 Wabasha Street North, Suite 400, St Paul

1) Call to Order

Commissioner Ho welcomed everyone and provided meeting logistics.

2) Roll Call/Introductions

Subcabinet members present: Jennifer Leimaile Ho, Minnesota Housing; Colleen Wieck, Governor's Council on Developmental Disabilities (GCDD); Paul Schnell, Department of Corrections (DOC), joined at 4:10 p.m.; Rebecca Lucero, Minnesota Department of Human Rights (MDHR); Mary Cathryn Ricker, Minnesota Department of Education (MDE)

Designees present: Blake Chaffee, Department of Employment and Economic Development (DEED); Claire Wilson, Department of Human Services (DHS); Courtney Jordan Baechler, Minnesota Department of Health (MDH); Tim Henkel, Department of Transportation (DOT); Sarah Walker, Department of Corrections (DOC);

Guests Present: Gerri Sutton, Metropolitan Council; Larry Herke, Minnesota Department of Veterans Affairs (MDVA); Nicole Archbold and John Harrington, Department of Public Safety (DPS); Mike Tessneer, Darlene Zangara, Zoua Vang, Rosalie Vollmar, and Sue Hite-Kirk, Olmstead Implementation Office (OIO); Anne Smetak and Ryan Baumtrog (Minnesota Housing); Erin Sullivan Sutton, Catherine Courcy, Alex Bartolic, Shireen Gandhi and Adrienne Hannert (DHS); Daron Korte, Tom Delaney, Holly Anderson, Luchelle Stevens (MDE); Darielle Dannen (DEED); Mark Kinde and Stephanie Lenartz (MDH); Kristie Billiar (DOT); Christina Schaffer and Mai Thor (MDHR); Maura McNellis-Kubat, Ombudsman Office for Mental Health and Developmental Disabilities (OMHDD); Mary Kay Kennedy, Advocating Change Together (ACT); Susan O' Nell, Institute on Community Integration (ICI); Jessica Emerson, Belle Plaine Public Schools; Noah McCourt, Christy Caez, Jennifer Pedersen and Bradford Teslow, (members of the public)

Guests Present via telephone: Justin Page, Minnesota Disability Law Center

Sign Language and CART providers: Mary Catherine (Minnesota Housing); ASL Interpreting Services, Inc.; Paradigm Captioning and Reporting Services, Inc.

3) Agenda Review

No changes to the agenda were requested. Commissioner Ho asked OIO staff if anyone had signed up for public comment and reminded any attendees to do so on the sign-in sheet at the back of the room.

4) Approval of Minutes

a) Subcabinet meeting on February 25, 2019

No changes were needed to the minutes for the February Subcabinet meeting.

Motion: Approve February 25th Subcabinet meeting minutes

Action: Motion – Henkel

Second – Chaffee

In Favor - All

5) Reports

a) Chair

Commissioner Ho acknowledged the release of the Governor's budget on February 19th. Each Commissioner will provide a brief overview at the end of the meeting regarding their agency's budget proposals that relate to implementation of the Olmstead Plan.

b) Executive Director

There was no report from the Executive Director.

c) Legal Office

Anne Smetak (Minnesota Housing) provided an update on the April 16th Status Conference with the Court and the Executive Order.

- The Olmstead Plan originally arose out of federal litigation filed in 2009, with a settlement reached in 2011.
- The Olmstead Plan document before the Subcabinet for approval is to be filed with the Court by the end of March.
- There is a Status Conference with Senior US District Court Judge Donovan Frank on April 16. This will include an update from Commissioner Ho on the status of The Olmstead Plan, and the reports that have been filed with the Court since the last status conference in July 2018. Ms. Smetak will provide an update on the Status Conference at the April Subcabinet meeting
- The Subcabinet is currently operating under the 2015 Executive Order, which expires April 7. The Governor's Office is in the process of developing the new Executive Order

d) Compliance Office

Mike Tessneer (OIO) provided an update on his initial review of the Guardianship issues raised during the public comment period and discussed at the last meeting. He noted that there is tension between the Americans with Disabilities Act choice and integration and the current application of guardianship.

To understand what is going on at the national level and in Minnesota he reviewed the current practices. Some highlights include:

- Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)
- Governor's Council on Developmental Disabilities presentation by Volunteers of America
- Minnesota Association for Guardianship and Conservatorship
- National Guardianship Network

- District of Columbia Olmstead Plan
- National Council on Disabilities

Mr. Tessneer’s advice to the Subcabinet is to be aware that there is much going on in Minnesota outside of state government that could be looked at, and potentially, the Olmstead Plan could align with. Two examples include:

- DHS has collaborated with WINGS in publishing a series of YouTube videos about why giving people the ability to choose, actually improves quality of life and improves their safety.
- The Volunteers of America has sponsored training on alternative decision making models and are increasing awareness.

6) Action Items

a) Olmstead Plan Amendment Process

1) Public Input Themes and Agency Response

Darlene Zangara reviewed the process used to solicit public input on the Plan during the second round of public comments. (February 26th – March 11th). This included two video conferences, one conference call, a focus group, and written input by email and an online form. These yielded over 49 comments from approximately 41 people with disabilities, families, supporters, lead agencies, and providers.

Mike Tessneer reviewed the Report on Public Input Themes and Agency Response document. He reported that the majority of comments received were focused on issues that are already included the Olmstead Plan workplans or could be added to the workplans.

2) Olmstead Plan Amendment (Supplemental handout)

Mike Tessneer introduced the final draft version of the March 2019 Revision of the Olmstead Plan. He provided a review of how the Plan is structured. The measurable goals are supported by strategies. The annual amendment process includes proposed changes to measurable goals and strategies. The agency leads were asked to provide a brief description of the goal and or strategy modifications and answer any questions. This included the proposed amendments to the Plan that were provisionally accepted by the Subcabinet at the February 25, 2019 meeting.

Upon approval by the Subcabinet the March 2019 Revision of the Plan will be submitted to the Court by March 29th.

Questions/Comments:

- Commissioner Ho directed members to the vision statement (pg. 13). There has been some discussion for modification of the statement from “living, learning,

working and enjoying life...” to “...live, learn, work and enjoy life...”. Further, it has been suggested to add at the end of the statement “...of their choice.” She asked the Subcabinet if they would support either of these edits or if they should delay editing the vision statement until further discussion by all members can be had. Colleen Wieck (GCDD) commented that the vision statement was written to be aspirational and recommended no change.

- Commissioner Lucero asked about the Person-Centered-Planning strategy to *expand, diversify and improve* (pg. 40). She asked that “diversify” be clarified to better identify what is meant. Erin Sullivan Sutton (DHS) stated the language comes from the Direct Care and Service report and is used in the broadest sense. Commissioner Lucero suggested a proposal to help increase wages for workers providing direct care and support services. Deputy Commissioner Wilson (DHS) noted the budgetary impacts and that more conversation is needed.
- Sarah Walker (DOC) suggested DHS licensing requirements should also be examined as they relate to people exiting correctional facilities who might seek employment in the direct care workforce. Deputy Commissioner Wilson (DHS) expressed DHS will be intentional about clarifying “diversity” going forward. DHS requests that no changes be made regarding language or DHS licensing barriers.
- Commissioner Ricker (MDE) asked about the Lifelong Learning and Education strategy, Goal One (pg. 63). She proposed a goal to specifically reduce suspensions and expulsions for students with disabilities. MDE has the data and will be collaborating with MDHR on strategies for this work. There was much discussion as to the process of adding a goal at this point in the amendment process. Assistant Commissioner Korte (MDE) suggested adding language to the strategies, stating this would be more straightforward than creating a new goal.
- Commissioner Lucero had questions about the Community Engagement Workgroup (pg. 97). Darlene Zangara (OIO) explained that the Workgroup was established through a charter and has three specific responsibilities.
- Commissioner Lucero (MDHR) referred to the Quality of Life survey (pg. 115) and if the next survey could look at the intersection of race and other categories on the quality of life measures. Darlene Zangara (OIO) confirmed that this topic is being addressed in the next survey and that it can be added to the Plan.
- Commissioner Ho referred to the Chair letter (pg. 7) and the introduction to the plan stating this will be updated once the Executive Order is released.

Motion: Approve the March 2019 Revision of the Olmstead Plan with adjustment to Lifelong Learning and Education, Strategy Goal One; new letter from the Chair; changes related to a new Executive Order; no changes to the vision statement; and no changes to Person-Centered-Planning, Strategy language on “diversify” or topic of barriers

Action: Motion – Jordan Baechler Second – Lucero In Favor - All

b) Workplan Compliance Report for March (OIO)

Mike Tessneer (OIO) reported that 15 workplan activities were reviewed. There are no exceptions to report. The list of activities reviewed is attached to the report.

Motion: Approve March Compliance Report

Action: Motion – Chaffee Second – Henkel In Favor – All

c) Proposed Adjustments to Workplan Activities

Adrienne Hannert (DHS) requested adjustments to three workplan activities. Darlene Zangara is requesting an adjustment to one workplan activity. The proposed adjustments and the reasons were included in the packet.

- 1) Person Centered Planning 1I - Annual report on trainings (DHS)
- 2) Crisis Services 2L.5 – Annual report on trainings (DHS)
- 3) Person Centered Planning 1H – Annual report on trainings (DHS)
- 4) Community Engagement 3D.2 – Community Engagement Plan workplan (OIO)

Motion: Approve adjustments to the workplan activities

Action: Motion – Wilson Second – Wieck In Favor - All

7) Informational Items and Reports

a) Workplan activity reports to be presented to Subcabinet

Agency staff presented three reports. No action was needed.

1) Transition Services 3A.7 – Efforts to increase diversity in service providers (DHS)

Adrienne Hannert (DHS) presented this report.

2) Positive Supports 3A.3 –Recommendations from legislative report (MDE)

Tom Delaney (MDE) presented this report.

Questions/Comments:

Commissioner Schnell (DOC) asked if there has been any discussion about the implications of school resource officers. Mr. Delaney (MDE) responded that analysis of specific data to that point has not been completed.

3) Community Engagement 3D.1a – Community Engagement Plan (OIO)

Darlene Zangara (OIO) presented this report.

b) Workplan activity reports to be reviewed by the Subcabinet

The remaining reports included in the packet were not presented to the Subcabinet. Agency staff were available to answer any questions, but there were no questions.

8) Budget Proposal Overview

Commissioner Ho requested each Commissioner to provide a brief overview of their agency's budget proposals that relate to implementation of the Olmstead Plan. At the end of the legislative session, an update will be provided on the budget proposals that were adopted.

- **Commissioner Herke (MDVA):** There are no significant changes to the budget related to Olmstead.
- **Gerri Sutton (Metropolitan Council):** The Met Council has a projected biennium deficit for Metro Mobility. The Governor has proposed a plan to eliminate the deficit and allow for transit growth.
- **Assistant Commissioner Henkel (DOT):** Goals of the Olmstead Plan are being achieved through the existing budget with no need for policy or budget-level changes this session. However, the Governor's transportation plan included added resources in future years that will help meet goals, particularly Transportation Goals 2 and 3.
- **Commissioner Ricker (MDE):** MDE has a proposal to invest new dollars to freeze the special education cross-subsidy where it is, so that the proposal to invest in the general fund can expand to include students with special needs. A second proposal is to add staff to MDE's student maltreatment investigation program to handle the increased number of reports received. Approximately 50% of maltreatment findings involve students with disabilities. In addition, MDE has several policy provisions to include:
 - Eliminate the sunset of school safety and technical assistance;
 - Require schools to use non-exclusionary discipline practices prior to expelling a student;
 - Require school districts to report pupil withdrawal to MDE and the state incident reporting system;
 - Require school districts to provide alternative education services to students suspended more than five days;
 - Provide the opportunity to complete school work assigned during suspension, leading to full credit; and
 - Ensure students remain eligible for school-linked mental health services while suspended.

- **Assistant Commissioner Jordan Baechler (MDH):** Budget proposals include: protecting vulnerable adults by looking at licensure and regulatory pieces for nursing homes, assisted living facilities, etc.; opioid initiatives looking at prevention and treatment for ongoing Suboxone and Naloxone use; and suicide prevention efforts. Other proposals include the MDE Quit Line taking over Clear Ways' previous work, and clean drinking water efforts.
- **Commissioner Lucero (MDHR):** The agency's core function overlaps the Olmstead Plan with over 60% of their cases related to disability. Budget proposals include expansion of offices to Duluth, Bemidji and Worthington; and funding to look at housing and employment for community members with criminal records.
- **Deputy Commissioner Chaffee (DEED):** DEED is proposing a budget in the next biennium for vocational rehabilitation services, with ongoing funding. This increase would keep and continue the first category of service.
- **Commissioner Ho (Minnesota Housing):** The Governor's housing proposal was the largest of any previous Governor. Funding is primarily for programs to create and preserve housing, as well as prevent and end homelessness, to include increased funding for:
 - Bridges mental health systems program;
 - Rehabilitation loan program which focuses on health and safety home improvements for seniors or household members with a disability;
 - Homework Starts with Home focusing on housing stabilization for students; and
 - Preserve and create housing for people with the lowest incomes.

On the federal level, HUD Section 811 is being looked at to determine how to create more housing opportunities for people with disabilities, exiting institutions, or people who are homeless.

- **Deputy Commissioner Wilson (DHS):** DHS has about 60 Olmstead-related proposals, with highlights as follows:
 - Expand the school-linked mental health grants to cover at least 7,000 more students;
 - Expand and sustain the certified community behavioral health clinics, and make them part of the Medicaid benefit set;
 - Expand the Transitions to Community initiative to transition people out of hospitals and treatment centers when that level of care is no longer needed. This would include a competency restoration task force to determine how to transition people in a sustainable way;
 - With MDH, expand and increase adult protections service grants to counties, with some improvements to Minnesota Adult Abuse Reporting Center (MAARC);

- Streamline and simplify the disability waiver system, moving from four to two disability waivers, and having an individual budgeting model that is sustainable; and
- Increased rates for the PCA workforce, as well as competitive workforce factor for the disability waiver rate-setting framework.

If the sunset for the provider tax is not repealed, DHS will have a \$992 million hole in the health care access fund.

- **Commissioner Schnell (DOC):** Budget proposals related to Olmstead include working with youth to reduce how many come into DOC via juvenile detention. This includes youth with disabilities and youth of color; adding an Ombudsman for Corrections for access to services if they do not believe that has been addressed; and expanding evidence-based case management to help people better adjust as they join their communities.
- **Nicole Archbold (DPS):** The agency has no Olmstead-related budget proposals.

Questions/Comments:

Colleen Wieck (GCDD) extended appreciation for courtesy calls about agency budget proposals, as GCDD is then better able to provide support.

9) Public Comments

Commissioner Ho proposed that Subcabinet members remain until 5:00 p.m. to allow for public comment. The majority of members stayed, with four individuals addressing the Subcabinet.

Mary Kay Kennedy, Advocating Change Together (ACT), Center for Disability Leadership

Written copy of testimony was provided and will be filed appropriately with the official meeting records. Copies were not provided to Subcabinet members. Highlights related to the Quality of Life Survey report included:

- Interactions with people with intellectual and developmental disabilities and people without disabilities have not changed over the last couple of years. People with disabilities receive very poor inclusion supports and opportunities;
- Contends that the low rate of inclusion shown in the Quality of Life Survey indicates the methods are wrong;
- ACT is seeing significant increases in disability inclusion when they support activities for people with or without disabilities, which supports more inclusive and diverse communities; and
- ACT has a “very small reach” supporting less than 1% of Minnesotans with intellectual and developmental disabilities.

Ms. Kennedy requested that the status of the work that ACT is doing be elevated within the Olmstead Plan. Specifically she requested the Subcabinet to consider setting a goal to reach 10% of Minnesotans with intellectual and developmental disabilities (27,000 individuals) within the next five years.

Christy Caez (member of the public)

The Public Comment Intake form was provided and will be filed with the official meeting records. Copies were not provided to Subcabinet members. Highlights on housing included:

- Most housing options for people with disabilities tend to be one-bedroom units; which are not realistic for families; and
- More affordable and accessible housing options are needed for people with disabilities and their families.

Bradford Teslow (member of the public)

The Public Comment Intake form was provided and will be filed with the official meeting records. Copies were not provided to Subcabinet members. Highlights included:

- Requested to see the last 12 months of correction orders for substance use treatment centers and mental health treatment centers. He believes there are many licensing violations in the process of initial treatment plans, follow up, and goals for discharge are not tracked.
- Guardians are making decisions for people with disabilities which can be traumatizing.
- Suggested Metropolitan Council, Metro Mobility vans help to inform people with disabilities about the Olmstead Plan by having informational cards available.
- Requested to submit a police report on an incident of assault within a treatment center as there does not appear to be an investigation of this incident.

Noah McCourt, (member of the public)

The Public Comment Intake form was provided and will be filed with the official meeting records. Copies were not provided to Subcabinet members. Highlights included:

- Supports gathering intersectionality data on race and the Olmstead Plan;
- Suggested review of Request for Proposal (RFP) process and amend it if necessary to allow for more opportunity for people of color to be eligible with this process;
- Encouraged DHS and MDH to look at health disparities within immigrants and communities of color affected by anti-vaccine messaging;
- Recognized the importance of Commissioner Harrington at this meeting, stating it is his belief that people with disabilities need emergency services often more than others; and
- Requested amendments to the plan on protection and advocacy that include public safety initiatives and sexual assault.

10) Adjournment

Commissioner Ho adjourned the meeting at 5:03 p.m.

Next Subcabinet Meeting: April 22, 2019 – 3:00 p.m. – 4:30 p.m.

Minnesota Housing – Lake Superior Conference Room, 400 Wabasha Street North, Suite 400, St Paul